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Document Drafting Handbook

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Revised Edition
April 1986

For sale by the Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

Introduction

The Office of the Federal Register presents this revised edition of the "Document Drafting Handbook." This edition replaces the handbook published June 1980. The updated requirements in this handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

The handbook is designed to help Federal agencies prepare documents for publication in the Federal Register.

We have attempted to present the information in this handbook in a functional manner. The material has been divided into segments that allow the user to identify the information necessary to solve a particular problem.

Editors of this handbook were Robert D. Fox, Roy Nanovic, and Ernie Sowada.

This handbook is issued under the Federal Register Act (44 U.S.C. Chapter 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR 15.10). Inquiries and comments should be addressed to the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

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Chapter I—The Federal Register/Code of Federal Regulations System

Historical background

Congress established the Federal Register publication system as a method of informing the public of the regulations affecting them. Increasing legislative activity spurred by New Deal programs led Congress to delegate more responsibility to Federal departments and agencies. The delegated responsibility frequently took the form of authority to issue detailed regulations concerning complex social and economic issues. A central publication system was necessary to manage effectively the increased number and expanded scope of Federal regulations.

The Federal Register Act (44 U.S.C. Chapter 15), which became law on July 26, 1935, established a uniform system for handling agency regulations. The Act specifically provided for—

- Submitting documents to the Office of the Federal Register;
- Placing documents on public inspection;
- Publishing documents in the Federal Register; and
- After a 1937 amendment, codifying rules in the Code of Federal Regulations.

Publication in the Federal Register has certain legal effects:

- It provides official notice of a document's existence and its content;
- It creates a rebuttable presumption that the text is a true copy of the original document;
- It indicates that the document was duly issued, prescribed, or promulgated; and
- It provides evidence that is judicially noticed by a court of law.

The Administrative Procedure Act (5 U.S.C. 551 et seq.), which became law on June 11, 1946, added significant dimensions to the Federal Register publication system. The Act—

- Gave the public, with some stated exceptions, the right to participate in the rulemaking process by commenting on proposed rules;
- Required that the effective date for a regulation be not less than 30 days from the date of publication unless there was good cause for an earlier date; and
- Provided for publication of agency statements of organization and procedural rules.

These two laws, the Federal Register Act and the Administrative Procedure Act, define the basic functions of the Federal Register system and provide the framework for the promulgation of government regulations.

Organization

The Federal Register system is composed primarily of two major publications, the daily Federal Register and the annually revised Code of Federal Regulations. The two publications together provide a current version of any Federal agency's regulations.

THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (CFR) is the basic component of the Federal Register publication system. The CFR is a codification of the regulations of the various Federal agencies.

Structure. The CFR is divided into 50 titles according to subject matter. Titles are divided into chapters, chapters divided into parts, and parts divided into sections. The Office of the Federal Register (OFR) assigns each Federal agency the title, chapter, and parts in which it publishes its regulations.

EXAMPLE 1: BASIC NUMBERING.

Title 23—Highways
Chapter I—Federal Highway Administration, Department of Transportation
Part 140—Reimbursement
§ 140.908 Materials and supplies.
(a) *Procurement.* * * *
(b) *Costs.* * * *
(c) *Materials recovered.* * * *

Title. Each title represents a broad area that is subject to Federal regulation. For example, Title 7 deals with agriculture, Title 23 with highways, Title 46 with shipping. Subtitles, lettered consecutively in capitals (A, B, C, etc.), are sometimes used to distinguish between departmentwide regulations and the regulations of the department's various units. Subtitles are also used to group related chapters.

Chapter. Each chapter is numbered in Roman capitals (I, II, III, etc.) and usually is assigned to a single agency, which may be an entire department or one of its units. Chapters are sometimes divided into subchapters, lettered in capitals (A, B, C, etc.) to group related parts.

Part. Each chapter is divided into parts, numbered in Arabic throughout each title (1, 2, 3, etc.). A part consists of a unified body of regulations applying to a single function of the issuing agency or devoted to specific subject matter under control of the issuing agency. Parts are usually assigned to chapters as follows: Chapter I, Parts 1 to 199; Chapter II, Parts 200 to 299; Chapter III, Parts 300 to 399, etc. Subparts, usually lettered in capitals, sometimes group related sections within a part.

Section. The section is the basic unit of the CFR and ideally consists of a short, simple presentation of one proposition. Each section number includes the number of the part followed by a period and a sequential number. For example, the first section in Part 25 is expressed as "§ 25.1".

THE FEDERAL REGISTER

The Federal Register is a daily publication that provides a uniform system for publishing Presidential and Federal agency documents. The Federal Register contains—

- Certain Presidential documents;
- Documents of general applicability and legal effect; and
- Documents required to be published by statute or regulation.

Structure. Each issue of the Federal Register contains certain elements:

- Preliminary pages of finding aids concerning the contents of that issue.
- Documents arranged under the headings of—
  - —Presidential documents;
  - —Rules and regulations;
  - —Proposed rules;
  - —Notices; or
  - —Sunshine Act meetings.
- Documents published as separate parts to allow the issuing agency to order reprints.
- Pages of general reader aids.

Relationship to CFR. Documents published in the Federal Register as codified regulations keep the CFR current. These documents make changes to the appropriate CFR volume.

Federal Register services

The OFR can assist drafters in preparing a document for publication in the Federal Register. The agency should consult with the OFR before submitting a document that is unusually large or has potential publication problems. The Federal Register staff frequently provides information and assistance concerning—

- Organizing and drafting document text;
- Preparing a document in the proper format;
- Obtaining advance galleys;
- Scheduling a document for publication;
- Complying with OFR publication requirements;
- Satisfying basic administrative law requirements;
- Obtaining extra copies of a printed document; and
- Complying with the requirements for incorporation by reference.

Consulting with the OFR during the early stages of drafting the document may help avoid problems when the document is submitted for publication.

Federal Register staff can also provide information concerning any OFR publication and any document filed for publication in the Federal Register. In addition, the OFR maintains a complete historical set of the Federal Register and the CFR. This material is available to the public for research and copying.

The Federal Register: What It Is And How To Use It. This is a workshop on the publications produced by the Office of the Federal Register. The workshop covers—

- The regulatory process;
- The relationship between the Federal Register and the Code of Federal Regulations;
- The important elements of typical Federal Register documents; and
- An introduction to the finding aids of the Federal Register publication system.

For information on the Federal Register workshops, write to:
Public workshops; The Federal Register: What It Is And How To Use It.
Office of the Federal Register
National Archives and Records Administration
Washington, DC 20408

Chapter II—Documents

Publication in the Federal Register

Documents published in the Federal Register must be official agency actions as specified in the Federal Register Act and the Freedom of Information Act.

The Federal Register Act (44 U.S.C. Chapter 15) requires that the following documents be published in the Federal Register.

- Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees of a Federal agency. For purposes of the act every document or order which prescribes a penalty has general applicability and legal effect.
- Documents or classes of documents that the President may determine from time to time have general applicability and legal effect.
- Documents or classes of documents that may be required to be published by Act of Congress.
- Documents authorized to be published by regulations except for comments and news items.

The Freedom of Information Act (5 U.S.C. 552) became law on September 6, 1966. It requires each agency to publish in the Federal Register material such as—

- Descriptions of central and field organizations;
- Descriptions of the course and method by which its functions are channeled and determined;
- Rules of procedure and a description of forms available;
- Substantive rules of general applicability;
- Statements of general policy or interpretations of general applicability; and
- Each amendment, revision or repeal of the above materials.

The act also authorizes the Director of the Federal Register to approve the incorporation by reference of eligible material in the Federal Register.

The regulations of the Administrative Committee of the Federal Register provide that whenever the Director of the Federal Register finds that publication of a document would be in the public interest, the document may be published in the Federal Register.

Document categories

Each document that is published in the Federal Register is assigned to a specific category for publication. Format and content requirements differ for documents in each category. (See Chapter III for Rule and Proposed Rule formats and Chapter IV for Notice formats.) The Office of the Federal Register (OFR) classifies documents for publication as follows:

The President

This category contains documents the President submits for publication or orders to be published. Documents in this category include—

- Proclamations;
- Executive orders;
- Memorandums;
- Orders;

- Presidential determinations; and
- Reorganization plans.

Rules and regulations

This category contains documents having general applicability and legal effect. The terms "rules" and "regulations" have the same meaning within the Federal Register publication system. The OFR classifies the following types of documents for publication in this category:

- *Documents that amend the CFR by adding new text or by revising or removing existing text.* A document that amends CFR text must publish each change to the CFR in full and state the effective date for any change.
- *Interim or temporary rule documents that are effective immediately for a short or definable period of time.* They have the same effect as a final rule in that they amend the CFR and give an effective date. However, in issuing an interim or temporary rule, the agency often asks for public comment. After the comment period expires, the agency may consider adjustments to the interim or temporary rule before issuing the final rule.
- *Documents that affect other documents previously published in the rules and regulations section.* These documents include—
  - —Corrections to previously published rules;
  - —Any change to the effective date of a previously published rule;
  - —Any document changing the comment period of an interim or temporary rule;
  - —Suspension of a previously published rule;
  - —Withdrawal of a previously published rule not yet in effect; and
  - —Petition for reconsideration of a previously published rule.
- *Documents that have no regulatory text and do not amend the CFR but either affect the agency's handling of its regulations or are of continuing interest to the public in dealing with an agency.* These documents include—
  - —General policy statements;
  - —Interpretations of agency regulations; and
  - —Statements of organization and function.

  The Administrative Conference of the United States, in Recommendation No. 76–2, recommends that these documents be preserved in the CFR.

Proposed rules

The first proposed rule section appeared in the Federal Register of January 1, 1947, as a result of the notice and comment provisions of the then recently enacted Administrative Procedure Act (APA). The OFR classifies the following types of documents for publication in this category.

- *Documents that suggest changes to agency regulations in the CFR and request public comments on those suggested changes.* Most of the documents in this section are required to be published as proposals by section 553 of the APA or other statutory authority. Some regulations are exempted from notice and comment requirements. Many agencies voluntarily publish these regulations in proposed form to allow public comment.
- *Documents that affect other documents previously published in the proposed rule section.* These documents may—
  - —Extend the comment period;
  - —Announce a public hearing;
  - —Publish or announce the availability of supplemental information;

—Withdraw a proposed rule or terminate a proposed rule proceeding; or

—Correct a previously published proposed rule document.

- *Documents beginning a rulemaking proceeding.* Any document that serves as the first public notice that a rulemaking proceeding is anticipated is classified as a proposed rule for publication. These documents include—

  —*Advance Notices of Proposed Rulemaking, Notices of Inquiry, Notices of Intent.* Agencies issue these documents at an early stage in the rulemaking process to receive public reaction as early as possible. These documents describe a problem or situation which implies the possibility of regulatory action by the agency. They seek public response concerning the necessity for regulating in the area and the adequacy of the agency's potential regulatory response.

  —*Petitions for rulemaking.* Certain petitions are placed in the proposed rule section because the petition proposes to amend, revise, add to, or remove existing regulations in the CFR, and the agency requests public comment.

  —*Meetings or hearings.* A document that announces a meeting or hearing that may be the first step in a rulemaking proceeding is placed in the proposed rule section.

- *Regulatory agendas.* These documents provide the public with advance notice of anticipated agency rulemaking.

Notices

This category includes any document published in the Federal Register that is not a Presidential document or does not relate to a rulemaking proceeding. Notice documents concern matters applicable to the public and are published for public information. Typical notice documents announce—

- Meetings;
- Applications;
- Issuance or revocation of licenses;
- Grant application deadlines;
- Availability of environmental impact statements;
- Certain petitions; and
- Orders or decisions affecting named parties.

Sunshine Act meetings

This category contains notices of meetings required to be published under the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)).

Can a rule, proposed rule or notice be combined in the same document?

No. The OFR will not accept any document for publication that combines material that would appear in different categories of publication in the Federal Register.

Any agency may reference in a document a related document that is published in the same Federal Register issue by using language shown in example 2.

EXAMPLE 2.

For a document relating to (subject matter) see a proposed rule published elsewhere in this issue.

Can a document be issued jointly?

Yes. Legislation, agency reorganization, jointly administered regulations or programs may require more than one agency or subagency to issue a document jointly. Also, agencies may want to coordinate the adoption of identical regulations. A jointly issued or coordinated document must be signed by an appropriate official from each agency, and each agency must be identified in the heading and preamble of the document.

In example 3 (50 FR 19933, May 13, 1985), the Veterans Administration and the Department of Defense concurred on a regulation in Title 38 of the CFR.

EXAMPLE 3: JOINTLY ISSUED DOCUMENT.

VETERANS ADMINISTRATION
DEPARTMENT OF DEFENSE
38 CFR Part 21
Veterans Education: Effect of the Veterans' Benefits Improvement Act of 1984 Upon VEAP
AGENCY: Veterans Administration and Department of Defense.
ACTION: Final regulation.
SUMMARY: This regulatory change implements a provision of the Veterans' Benefits Improvement Act of 1984 which affects people eligible to receive benefits under VEAP (Post-Vietnam Era Veterans' Educational Assistance Program). This regulatory change will acquaint the public with the way in which this Act affects VEAP.
* * * * *
SUPPLEMENTARY INFORMATION: The Veterans' Benefits Improvement Act of 1984 contains a provision which sets new monthly benefit rates for some VEAP recipients who are pursuing a high school diploma or equivalency certificate. The law allows the VA and the Department of Defense no discretion in this matter. The new rates are prescribed by law effective October 1, 1984. These technical amendments simply update the rates shown in VA regulations. Public participation in this regulatory change, therefore, is unnecessary. The VA and the Department of Defense find that good cause exists for making this regulatory change final without publishing a notice of proposed rulemaking.
* * * * *
List of Subjects in 38 CFR Part 21
Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.
Approved: March 27, 1985.
By direction of the Administrator:
Everett Alvarez, Jr.,
Deputy Administrator, Veterans Administration.
E.A. Chavarrie,
Deputy Assistant Secretary of Defense.
* * * * *

In example 4 (49 FR 1016, January 6, 1984), the Departments of the Interior, Agriculture, and Defense and the Tennessee Valley Authority promulgated identical regulations on protection of archaeological resources and codified these regulations in their respective titles of the Code of Federal Regulations. Because the regulations were identical, the text of the regulations was set out only once at the end of the document. The part heading, table of contents, and authority citation for the regulations in each CFR title preceded the text of the regulations.

EXAMPLE 4: ADOPTION OF IDENTICAL REGULATIONS.

DEPARTMENT OF THE INTERIOR
Office of the Secretary
43 CFR Part 7
DEPARTMENT OF AGRICULTURE
36 CFR Part 296
TENNESSEE VALLEY AUTHORITY
18 CFR Part 1312
DEPARTMENT OF DEFENSE
32 CFR Part 229
Archaeological Resources Protection Act of 1979; Final Uniform Regulations

AGENCIES: Departments of the Interior, Agriculture, and Defense and Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: These final regulations establish uniform procedures for implementing provisions of the Archaeological Resources Protection Act of 1979 in response to direction in section 10(a) of the Act. * * *

Chapter III—Rule and Proposed Rule Document Requirements

Headings

Each Federal Register rule or proposed rule document must begin with a series of headings that identify the issuing agency and subject matter of the document. The headings of a rule or proposed rule document also identify the CFR title and part the document amends or proposes to amend. Headings for a rule or proposed rule document must be presented in this format.

AGENCY

Subagency (If necessary)

CFR Title and Parts

Agency number (Optional)

Subject heading

Documents issued by a Cabinet-level agency may require a "Subagency" heading.

For a Cabinet-level agency the department is the "Agency" heading and the subordinate unit is the "Subagency" heading.

If the agency issuing the document is not a Cabinet-level agency, the "Subagency" heading is unnecessary.

EXAMPLE 5.

DEPARTMENT OF COMMERCE	**AGENCY**
National Oceanic and Atmospheric Administration	**SUBAGENCY**
15 CFR Part 931	**CFR TITLE AND PART**
Coastal Energy Impact Program	**SUBJECT**

FEDERAL HOME LOAN BANK BOARD	**AGENCY**
12 CFR Part 561	**CFR TITLE AND PART**
[No. 85–959]	**AGENCY NUMBER**
Preferred Stock As Regulatory Net Worth	**SUBJECT**

The "Agency" and "Subagency" headings for a document should reflect the "Agency" and "Subagency" names as shown in the CFR chapter the document amends or proposes to amend.

The "CFR Title and Part" heading must contain the number of the CFR title and the number of each part the document amends or proposes to amend. Even if the document affects only one paragraph within a part, include that part number.

The "Agency number" heading identifies the document within the internal filing system of the agency. This heading is optional and may be used when applicable.

The "Subject" heading should be a brief statement describing the content of the document. The CFR part heading may be sufficient for this purpose. However, more specific information should be used when the document amends several parts or when the part heading is too general.

The headings of a document that relate to a previously published document should duplicate the headings of the earlier document.

Each document submitted for publication in the Federal Register must have the required headings.

Preamble requirements

Each agency document published in the rule or proposed rule sections of the Federal Register must contain a preamble in the format prescribed in 1 CFR 18.12. The preamble follows the subject headings of the document. It contains the explanatory material necessary for the reader to understand the basis and purpose of the regulatory text. The preamble itself contains no regulatory material. It arranges basic information on the "who, what, where, when, and why" of a document in a uniform format. This allows the reader to skim documents for basic information.

The preamble format uses the following captions:

AGENCY:

ACTION:

SUMMARY:

DATES:

ADDRESSES:

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

They must appear in the order shown. An explanation and examples of what must appear with each caption follow.

AGENCY caption

The AGENCY caption is the "who" of a rulemaking document because it identifies the agency issuing the regulation.

This caption usually repeats the name of the agency as carried in the document's headings. When a subagency and agency name appear together, the subagency name is carried first and the agency name is represent-

ed by its commonly used acronym or other shortened expression. For organizational or administrative clarity, an agency may choose to include in this caption the name of an office which is not listed in the document's headings.

EXAMPLE 6: AGENCY CAPTIONS.

AGENCY: Department of Agriculture.
AGENCY: Department of Health and Human Services.
AGENCY: Coast Guard, DOT.
AGENCY: National Park Service, Interior.
AGENCY: Office of the Secretary, Commerce.
AGENCY: Internal Revenue Service, Treasury.
AGENCY: National Archives and Records Administration.
AGENCY: Federal Home Loan Bank Board.
AGENCY: Consumer Product Safety Commission.
AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION caption

The ACTION caption is designed to identify the type of document being presented—not to describe or summarize the substance of a document.

Typical entries under this caption for a rule document are shown in example 7.

EXAMPLE 7.

ACTION: Final rule.
ACTION: Final rule; delay of effective date.
ACTION: Final rule; suspension of effectiveness.
ACTION: Final rule; confirmation of effective date.
ACTION: Final rule; correction.
ACTION: Final rule; interpretation.
ACTION: Final rule; petition for reconsideration.
ACTION: Interim rule.
ACTION: Interim rule with request for comments.
ACTION: Temporary rule.
ACTION: Policy statement.
ACTION: Interpretation.

Typical entries under this caption for a proposed rule document are shown in example 8.

EXAMPLE 8.

ACTION: Proposed rule.
ACTION: Proposed rule; extension of comment period.
ACTION: Proposed rule; correction.
ACTION: Proposed rule; notice of hearing (or meeting).
ACTION: Proposed rule; withdrawal.
ACTION: Notice of proposed rulemaking.
ACTION: Advance notice of proposed rulemaking.
ACTION: Petition for rulemaking.
ACTION: Petition for rulemaking; denial.
ACTION: Petition for rulemaking; withdrawal.
ACTION: Proposed policy statement.

SUMMARY

The SUMMARY explains the "why" and "what" of the document being issued. A SUMMARY is a brief description, written in language that a non-expert will understand. It should allow the reader to determine the subject, the reason for the action, and the intended effect of a document. The SUMMARY is not intended to prove a point or argue a case. Supporting information, details, discussion of the regulatory history, and precise legal citations are essential in an adequate preamble but do not belong in the SUMMARY. Extended discussion of the regulation belongs in the SUPPLEMENTARY INFORMATION section below.

A SUMMARY must answer these three questions.

- What action is being taken?
- Why is this action necessary?
- What is the intended effect of this action?

The agency should structure the SUMMARY around the answers to these questions. Each question should be answered completely in a separate statement.

The agency should use the following guidelines in preparing a SUMMARY.

- Describe what the document does, not how it affects the CFR.
- Refer to an act of Congress by the popular name of the act.
- Do not use legal citations.
- Do not include qualifications, exceptions, or specific details.
- Be brief.

EXAMPLE 9: SUMMARY.

SUMMARY: This rule establishes a limit on allowable costs under grants for construction of publicly owned treatment works (POTWs). This limit is intended to provide additional incentive for municipalities to manage their grant funds as efficiently as possible. It will limit allowable cost increases for new grants and for new subagreements under existing grants.

SUMMARY: At the request of Lee County the Coast Guard is considering a change to the regulations governing the Sanibel Causeway drawbridge by permitting the number of openings to be limited during certain periods. This proposal is being made because vehicular traffic has increased. This action should accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

DATES caption

This caption presents the "when" of a document. It includes the dates within a document that are essential to the rulemaking proceeding.

The following dates should be included, when appropriate—

- Effective dates;
- Confirmation of effective dates;
- Comment deadlines;
- Public hearing dates; and
- Other dates relevant to public knowledge of the proceeding.

When the document contains an effective date only, use EFFECTIVE DATE for the caption.

If a specific date must be tied to Federal Register publication, the OFR can compute and insert the correct date. The OFR will use the "Table of Effective Dates and Time Periods" to compute and insert the correct date. This table appears in the Reader Aids section of the first Federal Register

issue each month. In computing the date, the day after publication is counted as the first day. When a date falls on a weekend or a Federal holiday, the next Federal business day is used. When this is necessary the agency should present the date as shown in example 10.

EXAMPLE 10: COMPUTATION OF DATES.

EFFECTIVE DATE: (Insert date of publication in the FEDERAL REGISTER).

EFFECTIVE DATE: (Insert date 30 days after date of publication in the FEDERAL REGISTER).

DATES: Comments must be submitted on or before (Insert date 60 days after date of publication in the FEDERAL REGISTER).

Underline the parenthetical statement. It makes it easier for the editor to find the date to be computed.

If the entire regulation is not effective on the same date, that should be stated as shown in example 11.

EXAMPLE 11.

EFFECTIVE DATE: This regulation is effective November 22, 1985, except for § 22.5(a) which will be effective December 23, 1985.

Do not use the following wording in the EFFECTIVE DATE caption.

- Effective immediately.
- Effective upon issuance.
- Effective date of signature.
- Effective upon promulgation.

If the regulation is effective on one of these dates, the agency must include the specific date in the EFFECTIVE DATE entry.

ADDRESSES caption

This caption contains the "where" of the document. It includes any address that a participant in a rulemaking proceeding needs to know. Addresses appropriate for inclusion under this caption include the address for—

- Mailing public comments;
- Hand delivering public comments;
- Attending a public hearing; or
- Examining any material available for public inspection.

The ADDRESSES caption is optional for final rule documents. The final rule is usually the end of the rulemaking process and does not ordinarily request comments. However, an interim rule frequently requests comments. In that case, include an address to which comments should be sent.

The DATES and ADDRESSES captions must not contain information other than those dates and addresses. Discussion of meeting agenda, content of material available for inspection, etc. should appear in the SUPPLEMENTARY INFORMATION section of the preamble.

The DATES and ADDRESSES are separate captions. All date information must appear with the DATES caption. All address information must appear with the ADDRESSES caption.

FOR FURTHER INFORMATION CONTACT caption

Under this caption, the agency must include the name and telephone number of a person within the agency who can answer questions about the document. An agency may list two or more persons to contact concerning different aspects of a document.

Examples of DATES, ADDRESSES, and FOR FURTHER INFORMATION CONTACT.

Examples 12 through 15 present the format for information required under these headings for different types of documents. Detailed information, if necessary, should be included in the SUPPLEMENTARY INFORMATION section of the preamble.

EXAMPLE 12: FORMAT IN FINAL RULE.

EFFECTIVE DATE: (Insert date 30 days after date of publication in the FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: Thomas Shadwell, 202–000–0000.

EXAMPLE 13: FORMAT IN INTERIM RULE.

DATES: Interim rule effective September 22, 1986; comments must be received on or before October 20, 1986.

ADDRESSES: Comments may be mailed to the Hearing Clerk, Room 000, Department of ————, Washington, DC 20000, or delivered to Room 001, Department of ————, Washington, DC between 9:00 a.m. and 5:30 p.m. Comments received may also be inspected at Room 001 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Thomas Shadwell (Program Officer), 202–000–0000 or

Cynthia James (Principal Attorney), 202–000–0001.

EXAMPLE 14: FORMAT IN PROPOSED RULE.

DATES: Comments must be received on or before October 20, 1986; public hearing, October 9, 1986, 9:00 a.m.; requests to present oral testimony must be received on or before October 2, 1986.

ADDRESSES: Comments and requests to testify may be mailed to Hearing Clerk, Room 000, Department of ————, Washington, DC 20000; the hearing will be held in Room 000, 000 Independence Avenue, S.W., Washington, DC

FOR FURTHER INFORMATION CONTACT: Thomas Shadwell, 202–000–0000.

EXAMPLE 15: FORMAT IN PROPOSED RULE WITH FOUR DATES AND ADDRESSES.

DATES: The hearings are scheduled as follows:

1. March 26, 1986, 9:30 a.m. to 5:00 p.m., Philadelphia, Pennsylvania
2. April 3, 1986, 9:30 a.m. to 5:00 p.m., Chicago, Illinois
3. April 8, 1986, 9:30 a.m. to 5:00 p.m., Atlanta, Georgia
4. April 15, 1986, 9:30 a.m. to 5:00 p.m., Denver, Colorado

ADDRESSES: The hearings will be held at the following locations:

1. Philadelphia—Ramada Inn (Meadows Ballroom, Section A & B), 76 Industrial Highway, Essington, Pa. 19029
2. Chicago—O'Hare Ramada Inn (Penthouse Ballroom, 9th Floor), 6600 Mannheim Road, Des Plains, Ill. 60018
3. Atlanta—Ramada Inn Central (Georgian Ballroom), I–85 at Monroe Drive, Atlanta, Ga. 30324
4. Denver—Main Post Office Bldg. (2nd Floor Auditorium, Room 269), 1823 Stout Street, Denver, Colo. 80202

SUPPLEMENTARY INFORMATION

The SUPPLEMENTARY INFORMATION section is the regulatory history of a rulemaking document. In this section the agency should present the background information and specific detail necessary to explain the basis and purpose of a final rule or give adequate notice of the issues to be commented on in a proposed rule as required by the Administrative Procedure Act. The agency should present this information in language easily understood by the reader. The agency may use descriptive headings to highlight topics or organize text in the SUPPLEMENTARY INFORMATION section. If a reference to the Federal Register or Code of Federal Regulations is necessary use the format shown on page 59.

The agency may use the SUPPLEMENTARY INFORMATION section to meet certain additional information requirements. The agency may indicate whether—

- The regulation is a major rule under the requirements of E.O. 12291;
- A Regulatory Analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601–611);
- The provisions of the Paperwork Reduction Act apply (44 U.S.C. Ch. 35);
- An environmental impact statement is required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
- There is a Catalog of Federal Domestic Assistance number.

CHECKLIST OF QUESTIONS TO CONSIDER WHEN WRITING SUPPLEMENTARY INFORMATION

General information in all rulemaking documents. The agency should include the answers to the following questions in the SUPPLEMENTARY INFORMATION section of each rulemaking document.

- What problem does the rulemaking address?
  - —What issues are connected with the problem?
  - —What facts, surveys, or studies identify and define the problem?
  - —What law or directive authorizes the rulemaking?
  - —What existing regulations address the problem?
- How does this rulemaking attempt to solve the problem?
  - —Were other solutions considered?
  - —How was this solution chosen?
  - —Is this solution cost effective?
  - —How will this solution affect the regulated parties?
- Does this rulemaking contain penalties for noncompliance?
  - —Are penalty provisions essential?
  - —Can the requirements of the regulations be monitored?
  - —Can the penalty provisions be enforced?
- Were interested parties involved in the rulemaking?
  - —How were they identified?
  - —How were they notified?
- Have other documents in the rulemaking been identified (including Federal Register volume, page and date)?
  - —Proposed rule?
  - —Advance notice of proposed rulemaking?
  - —Meeting or hearing announcement?
- Have subject headings been used to break up lengthy SUPPLEMENTARY INFORMATION text? For example—
  - —Background.
  - —Statutory authority.
  - —Request for comments.

—Related documents.
—Topical headings.
—Drafting information.

General information in proposed rule documents. In addition to the general information in rulemaking documents, the agency should include the answers to the following questions in the SUPPLEMENTARY INFORMATION section of each proposed rule document.

- How will public participation be handled?
- Are there special instructions for mailing public comments?
- Are there formal or informal hearings?
  - —Are there procedures for requesting a public hearing?
  - —Are there any instructions for filing comments or making oral presentations?
  - —Will transcripts of the hearing be made available?

General information in final rule documents. In addition to the general information in rulemaking documents, the agency should include the answers to the following questions in the SUPPLEMENTARY INFORMATION section of each final rule document.

- Are there any substantive differences between the proposed rule and the final rule?
  - —Why were these changes made?
  - —Will the public have an opportunity to comment on these changes?
- Have all substantive comments been considered and discussed?
  - —Did the comments reveal any new information?
  - —Did the comments suggest any alternative solutions?

If a section-by-section analysis of the comments is included, it should appear in the SUPPLEMENTARY INFORMATION.

- Was the proposed rule stage waived?
  - —Is the reason for the waiver explained?
  - —Will the public be given an opportunity to comment on the regulation?
- Does the regulation become effective immediately?
  - —Were the requirements of 5 U.S.C. 553 waived?
  - —Is the reason for the waiver explained?

List of Subjects

Each rule or proposed rule document must contain a list of index terms (List of Subjects) for each CFR part number cited in the document's heading. These terms are contained in the "Federal Register Thesaurus of Indexing Terms," a publication available from the OFR. The terms provide a common vocabulary for indexing the regulations of all agencies and are the basis of the "CFR Index" prepared by the OFR. The terms are also used by OFR staff in the preparation of finding aids for the preliminary pages of each Federal Register. The OFR will provide an agency with a list of appropriate terms for its existing CFR parts. For new CFR parts, an agency should select appropriate terms from the Thesaurus. An agency may include additional terms not contained in the Thesaurus for either existing or new CFR parts as long as appropriate Thesaurus terms are also used.

The List of Subjects is the last item in the SUPPLEMENTARY INFORMATION section of the preamble. The terms used in the List of Subjects are

presented in alphabetical order and are separated by commas. Only the first word of each term is capitalized.

The List of Subjects is set out separately for each CFR part cited. (See example 16.) However, if the terms to be used are identical for several CFR parts, they may be consolidated. (See example 17.)

EXAMPLE 16: FORMAT FOR DOCUMENT CITING A SINGLE CFR PART.

List of Subjects in 40 CFR Part 262
Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

EXAMPLE 17: FORMAT FOR DOCUMENT CITING TWO OR MORE CFR PARTS.

List of Subjects
15 CFR Part 370
Administrative practice and procedure, Exports.
15 CFR Parts 372 and 386
Exports, Reporting and recordkeeping requirements.

Words of issuance

The words of issuance in a rulemaking document are the language which describes the relationship of the new provisions to the CFR. Words of issuance form—

- The general ties between the document and the CFR units being affected; and
- The bridge between the preamble and the regulatory text in a rulemaking document.

Because the rulemaking document is the act of promulgation, words of issuance are always in the present tense. The action of the document should be stated clearly, not implied.

The words of issuance should state the CFR title number, chapter number, and, if applicable, the subchapter number affected by the document. The agency may state the part number(s) in the words of issuance, if desired.

EXAMPLE 18: WORDS OF ISSUANCE.

For the reasons set out in the preamble, Title 18, Chapter I, Subchapter A of the Code of Federal Regulations, is amended as set forth below.

For the reasons set out in the preamble, Title 10, Chapter II of the Code of Federal Regulations is proposed to be amended as follows.

For the reasons set out in the preamble and under authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, it is proposed to revise Title 1, Part 21, Subpart B of the Code of Federal Regulations as follows.

Authority citation

Each document classified as a rule or proposed rule must contain a citation of the legal authority under which the agency issues the document. The citation should include—

- Any statutory general rulemaking authority;
- Any specific rulemaking authority delegated by statute; and
- Any Executive delegations that link the statutory authority to the issuing agency.

Each CFR unit amended by a document must be authorized by a citation of authority presented in the document.

The agency is responsible for maintaining accurate and current authority citations in its regulations.

The authority citation must be centralized at the part level or at the subpart level. Citations of authority for particular sections may be specified within the centralized authority citation. An agency which is statutorily required to display an authority citation at the section level should confer with the OFR on the proper placement of authority citations in its documents.

If there is any change to an authority citation, the agency must revise the citation as shown in example 19.

If there is no change to an authority citation, the agency must restate the citation as shown in example 20.

EXAMPLE 19.

The authority citation for Part 4 is revised to read as follows:
Authority: 44 U.S.C. 1502.

EXAMPLE 20.

The authority citation for Part 4 continues to read as follows:
Authority: 44 U.S.C. 1502.

AUTHORITY CITATIONS: FORM AND CONTENT

The authority citation should be in the shortest form compatible with positive identification and ready reference.

Each citation of statutory authority must use the United States Code citation, if one exists, that authorizes the issuance of the regulation. The citation should be to the most recent edition of the United States Code. Consult the basic edition of the United States Code plus the latest supplement. It is not necessary to cite a Public Law or the U.S. Statutes at Large in addition to the United States Code citation. (See example 21.)

When a United States Code citation does not exist, the agency should cite the Public Law and the U.S. Statutes at Large by referring to the Public Law section and number, and the U.S. Statutes at Large volume and page number. (See example 22.)

Nonstatutory authority, such as a Presidential Executive order, agency executive delegation, or other document showing authority to issue regulations, should be cited by document designation, Federal Register volume and page, and, when possible, a parallel citation to the Code of Federal Regulations. (See example 23.)

If both statutory material and nonstatutory material are included in the same authority citation, place the statutory material first. (See example 24.)

EXAMPLE 21.

Authority: 44 U.S.C. 2101–2118.

EXAMPLE 22.

Authority: Sec. 8067, Pub. L. 98–473, 98 Stat. 1937.

EXAMPLE 23.

Authority: E.O. 11222, 30 FR 6469, 3 CFR 1965 Supp., p. 10; 5 CFR 735.101 et seq.

EXAMPLE 24.

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

If an agency chooses to cite the United States Code, Public Law, and the U.S. Statutes at Large in the same authority citation, the references should appear in the order shown in example 25.

EXAMPLE 25.

Authority: Sec. 8, Pub. L. 98–328, 82 Stat. 470 (34 U.S.C. 21).

AUTHORITY CITATIONS: PLACEMENT

If a document adds or revises an entire CFR part, the authority citation must be placed directly after the table of contents and before the regulatory text. (See example 26.)

If a document adds or revises an entire CFR subpart, and that subpart has an authority citation which is not provided for in the authority citation for the part, the authority citation for the subpart must be placed directly after the heading to the subpart and before the regulatory text of the subpart. (See example 27.)

If a document amends only certain sections within a CFR part, or adds or revises an entire subpart which has the same authority citation as the CFR part, the authority citation for the part must be set out as the first numbered item in the list of amendments for the part. (See example 28.)

EXAMPLE 26.

PART 54—ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT

Sec.

54.1 Purpose.
54.2 Applicability and scope.
54.3 Definitions.
54.4 Policy.
54.5 Responsibilities.
54.6 Procedures.

Authority: 15 U.S.C. 1673, 37 U.S.C. 101, 42 U.S.C. 665.

§ 54.1 Purpose.

Under 42 U.S.C. 665, this part provides policy on statutorily required child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

EXAMPLE 27.

Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

Sec.

230.201 Purpose.
230.202 Definitions.
230.203 Policy.
230.204 Implementation of supportive services.
230.205 Supportive services funds obligation.
230.206 Monitoring supportive services.
230.207 Sources of assistance.

Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

Authority: 23 U.S.C. 101, 140(c), 304, 315; 49 CFR 1.48(b).

§ 230.201 Purpose.

To prescribe the policies, procedures, and guidance to develop, conduct, and administer supportive services assistance programs for minority, disadvantaged, and women business enterprises.

EXAMPLE 28.

PART 1258—FEES

1. The authority citation for Part 1258 is revised to read as follows:

Authority: 44 U.S.C. 2116(c).

2. Section 1258.2 is amended by revising paragraphs (a) and (c)(3) as follows:

§ 1258.2 Applicability.

(a) Except as otherwise provided in this section, fees for the reproduction of NARA administrative records, archival records, donated historical materials, and records filed with the Office of the Federal Register are as set forth in § 1258.12.

* * * * *

(c) * * *

(3) Motion picture and sound and video recording materials among the holdings of the National Archives. Prices for reproduction of these materials are available from the Motion Picture and Sound and Video Branch, National Archives (NNSM), Washington, DC 20408.

* * * * *

Regulatory text

The regulatory text of a rulemaking document will ultimately be codified in the Code of Federal Regulations. The regulatory text of a document must be presented as amendments to the CFR. This means that regulatory text must—

- Be drafted exactly as it is to appear in the CFR; and
- Conform to the structure and nomenclature of the CFR.

CFR structure. The basic structure of the CFR consists of a hierarchy of designated CFR units. The major components of this structure are illustrated in the following table.

CFR Unit	CFR Designation	Description
Title	12	Broad area subject to Federal regulation
Chapter	III	Regulations of a single issuing agency
Part	303	Unified body of regulations concerning a single function or specific subject
Section	303.1	Short presentation of one regulatory proposition

For a more detailed discussion of CFR units illustrated above, see page 2.

Chapters and parts may be subdivided into subchapters and subparts. These subordinate units are designated alphabetically—for example, Subchapter A or Subpart A. The issuing agency may use subchapter and subpart units to provide additional organizational levels.

The section is the basic unit of the CFR. It can be considered the building block for CFR text since most amendments are expressed in terms of how they affect a section or group of sections. The content of a section should be limited to the short, simple presentation of a single regulatory proposition. Each section number includes the number of the part followed by a period and a sequential number. For example, the first section in Part 25 is expressed as "§ 25.1". Note: The CFR numbering system is not based on a

decimal numbering system. Consequently, the first section of a part would not be expressed as § 25.01. Also, § 25.2 would precede § 25.15.

Hyphenated numbers (§ 117–2.1 or § 117–1.2) or numbers with alpha characters (Part 115a, § 115a.1, or § 115.1a) are not permitted in designating units within the CFR system. Any deviation from standard CFR designation must be approved, in advance, by the OFR.

If internal division of a section is necessary, the section may be divided into paragraphs. Each paragraph within a section must be designated for reference and future amendment. The paragraph structure within a section allows six levels of designation.

The level of designation is the number of paragraph symbols necessary to identify a subdivision within a section. Example 29 illustrates how to reference individual paragraphs within a section.

EXAMPLE 29: PARAGRAPH STRUCTURE OF A SECTION.

level 1	(a), (b), (c), etc.
level 2	(1), (2), (3), etc.
level 3	(i), (ii), (iii), etc.
level 4	(A), (B), (C), etc.
level 5	(*1*), (*2*), (*3*), etc.
level 6	(*i*), (*ii*), (*iii*), etc.

On the typewritten document, italics may be indicated by underlining.

The agency should avoid overly detailed subdivision within a section. Divisions below the third level of designation may indicate a problem in organization caused by a structure which is too complex. The agency should divide a complex section into smaller, more compact sections.

Definitions. In sections containing only definitions, paragraph designations are not required if the definitions appear in alphabetical order.

Citing text within a section

§ 233.17 Noncompliance and program reporting by the Director.

The Director shall prepare quarterly and annual reports as detailed below and shall submit them to the Regional Administrator.

= introductory text of § 233.17

(a) *Quarterly-reports for State 404 programs.* The Director shall submit noncompliance reports for section 404 discharges specified under § 233.24(f)(1)(i) (A) through (E) containing the following information:

= introductory text of paragraph (a)

(1) Name, location, and permit number of each noncomplying permittee;

= paragraph (a)(1)

(2) A brief description and date of each instance of noncompliance, which should include the following:

= introductory text of paragraph (a)(2)

(i) Any unauthorized discharges of dredged or fill material subject to the State's jurisdiction or any noncompliance with permit conditions; and

= paragraph (a)(2)(i)

(ii) A description of investigations conducted and of any enforcement actions taken or contemplated.

= paragraph (a)(2)(ii)

= paragraph (a)(2)

= paragraph (a)

(b) *Annual report for State 404 programs.* The State Director shall submit to the Regional Administrator an annual report assessing the cumulative impacts of the State's permit program on the integrity of State regulated waters. This report shall include:

(1) The number and nature of individual permits issued by the State during the year. This should include the locations and types of water bodies where permitted activities are sited (for example, wetlands, rivers, lakes, and other categories which the Director and Regional Administrator may establish);

(2) The number of acres of each of the categories of waters in paragraph (b)(1) of this section which were filled or which received any discharge of dredge material during the year (either by authorized or unauthorized activities);

(3) The number and nature of permit applications denied; and permits modified, revoked and reissued, or terminated during the year;

(4) The number and nature of permits issued under emergency conditions, as provided in § 233.38;

(5) The approximate number of persons in the State discharging dredged or fill material under general permits and an estimate of the cumulative impacts of these activities.

Headings in regulatory text

Provide a heading for each designated CFR unit larger than a paragraph. A heading is a brief statement that accurately describes the content of the CFR unit. A change in the title of a heading requires an amendment to the CFR.

EXAMPLE 30: HEADINGS IN REGULATORY TEXT.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

Subpart A—General

Sec.

970.100 Purpose.

970.101 Definitions.

970.102 Nature of licenses.

970.103 Prohibited activities and restrictions.

Subpart B—Applications

970.200 General.

* * * * *

Authority: 30 U.S.C. 1411, 1468.

* * * * *

Subpart B—Applications

* * * * *

§ 970.200 General.

(a) Who may apply; how. Any United States citizen may apply to the Administrator for issuance or transfer of an exploration license. Applications must be submitted in the form and manner prescribed in this subpart.

(b) Place, form and copies. Applications for the issuance or transfer of exploration licenses must be submitted in writing, verified and signed by an authorized officer or other authorized representative of the applicant, in 30 copies, to the following address: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, DC 20235. The Administrator may waive, in whole or in part, at his discretion, the requirement that 30 copies of an application be filed with NOAA.

* * * * *

(e) Priority of right. (1) Priority of right for issuance of licenses to pre-enactment explorers will be established pursuant to Subpart C of this part.

(2) Priority of right for issuance of licenses to new entrants will be established on the basis of the chronological order in which license applications, which are in substantial compliance with the requirements established under this subpart, pursuant to § 970.209, are filed with the Administrator.

(3) Applications must be received by the Office of Ocean Minerals and Energy on behalf of the Administrator before a priority can be established.

* * * * *

Part. Each part heading should contain subject terms that identify the agency's regulations in a manner consistent with the terms used by other agencies to identify similar material. The OFR has developed a thesaurus of subject terms used by the OFR to index the Federal Register, the CFR, and related publications. The agency should use the thesaurus for subject terms that identify the regulation and use the appropriate subject terms in the regulation's part heading.

Subpart. Subpart headings may be used to separate ideas within a part. Subparts are not required.

Section. Descriptive section headings function as signposts for the reader. They help readers identify the particular regulatory provisions that apply to them.

Part, subpart, and section headings are used to create a table of contents for each part which provides the reader with an outline of the regulation.

Paragraph. Headings may be used at the paragraph level to help the reader find significant material within a section. The agency should indicate paragraph headings by underlining them in the submitted document. In the Federal Register, the underlined headings are printed in italics. Paragraph headings are not listed in the table of contents; they appear only in the text of the regulation. If headings are used, they should be used consistently within each level of paragraph designation. (See page 23 for paragraph designations.)

Amendatory language: General

A rulemaking document makes changes or additions to the Code of Federal Regulations. The regulatory text of a rulemaking document must fit into the current text of the CFR. The agency must precisely identify and describe the changes being made to the CFR. This information is presented in the words of issuance and amendatory language of the rulemaking document. The words of issuance describe the general effect of the document, and the amendatory language gives specific instructions on how to change CFR text. The amendatory language must not contain a discussion of why or how the changes are made. Any discussion belongs in the SUPPLEMENTARY INFORMATION.

Note that the current text is not necessarily what appears in the latest edition of the CFR. Changes to the text may have been published in the Federal Register since the revision date of the CFR title. Use the "List of CFR Sections Affected" (LSA), a cumulative monthly numerical index to rules and proposed rules published in the Federal Register, to determine if any changes have been made. Use the cumulative list of CFR Parts Affected, which appears daily in the Reader Aids section of the Federal Register, to check for changes in any month not covered by the LSA.

Examples 31, 32 and 33 illustrate the procedure for verifying the current text of the CFR. Assume that the agency (Social Security Administration) wishes to find the current text for 20 CFR 404.936.

Example 31 shows the text of § 404.936 as it appears in the CFR revised as of April 1, 1985.

In example 32, the November 1985 LSA indicates that paragraph (b) of § 404.936 was revised and paragraphs (c) and (d) were added at page 21438 of the Federal Register. The Table of Federal Register Issue Pages and Dates in the back of the LSA identifies May 24, 1985, as the issue containing that page.

In example 33, the cumulative list of CFR Parts Affected from the Federal Register of December 16, 1985 (the latest issue available) indicates that there are two rule documents affecting Part 404 at pages 50068 and 50118. The Federal Register pages and dates table immediately preceding the cumulative list of CFR Parts Affected identifies December 6, 1985, as the issue containing those pages. Look at the documents starting on those pages to see if they affect § 404.936 specifically. As it happens, neither of these two documents affect § 404.936.

Consequently, the current text, as of December 16, 1985, for § 404.936 consists of paragraph (a) as it appears in the CFR, plus the revised paragraph (b) and the new paragraphs (c) and (d) as they appear in the Federal Register of May 24, 1985.

EXAMPLE 31: EXCERPT FROM CFR.

§ 404.936 Time and place for a hearing.

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necesssary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision. Hearings are held in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Virgin Islands.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

EXAMPLE 32: EXCERPT FROM LSA.

NOVEMBER 1985 97

CHANGES APRIL 1 THROUGH NOVEMBER 29, 1985

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health and Human Services

401.100 Amended..... 28568
401.125 Amended..... 28568
401.500 Revised..... 28568
401.510 Revised..... 28568
Correctly designated..... 30144
404 Heading corrected..... 19164
404.110 (a) revised..... 36573
Effective date corrected..... 38113
404.112 Added..... 36573
Effective date corrected..... 38113
404.408a Old (d) correctly redesignated as (e)..... 20902

Page
404.900—404.996 (Subpart J) Authority citation revised..... 21437
404.902 Introductory text corrected..... 20902
404.936 (b) revised; (c) and (d) added..... 21438
404.938 Revised..... 21438
404.957 (b) revised..... 21438
404.1004 (a)(2) and (b)(5) revised; (a)(4) added; (b)(6) removed; (b)(7) through (10) redesignated as (b)(6) through (9)..... 36573
Effective date corrected..... 38113
404.1025 Redesignated from 404.1026..... 36573
Effective date corrected..... 38113

EXAMPLE 33: EXCERPT FROM FEDERAL REGISTER.

17 CFR

200..... 50286
210..... 49529
229..... 49529
239..... 49529
250..... 50611
259..... 50611
276..... 49835

Proposed Rules:

1..... 49859
166..... 50805
240..... 50624
250..... 49354, 49705

18 CFR

2..... 49679, 51240
32..... 49924
33..... 49924
34..... 49924
35..... 49924
36..... 49924
45..... 49924
101..... 49924
152..... 51240
154..... 51240
157..... 51240
260..... 49534

19 CFR

162..... 50287
171..... 50287

20 CFR

404..... 50068, 50118
416..... 50118
601..... 51241

Proposed Rules:

404..... 49397, 49558, 50630, 50920
416..... 50920
655..... 50311, 50313

21 CFR

172..... 49535
173..... 49535, 49684
175..... 49535, 49684
176..... 49684
178..... 49684, 50611
181..... 49535
184..... 49535
193..... 49687
310..... 49371
510..... 49372, 49537
520..... 49372, 49537, 49840, 50291

Amendatory language: Terms

The amendatory language identifies each specific change made in CFR text.

Amendatory language serves as the agency's instructions to—

- Inform the reader of the specific changes made to agency regulations; and
- Guide the OFR editor in updating the CFR.

Amendatory language must be exact. It must describe each change as it affects the current text of the CFR. Check the latest revision of the CFR volume being amended, the latest edition of the LSA, and the cumulative list of CFR Parts Affected in the current month's Federal Register to establish the current text of the regulation. (See examples 31 through 33 on page 27.) The amendatory language for each change must—

- Identify the specific CFR unit being amended by its complete numerical and alphabetical designation; and
- Describe how that CFR unit is being changed.

The following terms must be used in amendatory language. Each term is a precise instruction that alters a CFR unit in a prescribed manner. The OFR has selected these terms to standardize amendatory language.

Amended. Amended means that an existing CFR unit is changed. Because it is an introductory term, it cannot stand alone. It must be used with other amendatory terms.

EXAMPLE 34: AMENDED.

Part 200 is amended by adding §§ 200.4 and 200.6 to read as follows:

Part 215 is amended by removing §215.7.

Section 791.27 is amended by revising paragraph (b)(3) and by adding paragraph (d)(4) to read as follows:

Added. Added means that a unit of new material, such as a paragraph, section, part, or chapter, is inserted in the CFR.

EXAMPLE 35: ADDED.

Part 1812 is added to read as follows:

In § 18.13, paragraph (e) is added to read as follows:

A new paragraph (f)(5) is added to § 210.14 to read as follows:

Section 4.8(a)(3)(iii) is added to read as follows:

Section 20.89 is added to Subpart H to read as follows:

Removed. Removed means that an existing CFR unit is being taken out of the CFR.

EXAMPLE 36: REMOVED.

Section 300.12 is removed.

In § 495.73, paragraphs (a)(5) and (e) are removed.

Revised. Revised means that an existing CFR unit is presented in its entirety. Any discussion of how the unit differs from the previous version belongs in the SUPPLEMENTARY INFORMATION.

EXAMPLE 37: REVISED.

Part 105 is revised to read as follows:

Section 80.100(e)(1)(iii) is revised to read as follows:

In § 15.4, the introductory text of paragraph (b) and paragraph (f)(2) are revised to read as follows:

Republished. Republished means that an unchanged CFR unit is set out for the convenience of the reader, often to provide the context for an amendment. This is used most commonly with introductory text. All regulatory text which is published or republished in a rule document in the Federal Register is used to update the Code of Federal Regulations. Therefore, the agency must present the republished text accurately.

EXAMPLE 38: REPUBLISHED.

In §2.1, paragraph (a) introductory text is republished and paragraphs (a)(1) and (3) are revised to read as follows:

Reserved. Reserved is a term used to maintain the continuity of codification in the CFR.

For example, removing a subpart or a paragraph may leave a gap which could confuse the reader. To avoid confusion, the amendatory language should say that the subpart or paragraph is removed and reserved. (See example 39.)

Reserved can also be used when adding or revising a CFR unit to indicate where future text will be added. (See example 40.)

See the table of contents on page 33 for proper display.

EXAMPLE 39: RESERVED (WHEN REMOVING CFR UNIT).

Subpart Q [Removed and Reserved]

1. Subpart Q is removed and reserved.

EXAMPLE 40: RESERVED (WHEN ADDING OR REVISING A CFR UNIT).

1. Subpart E is added and reserved and Subpart F is added to read as follows:

Corrected. Corrected means that a clerical or typographical error in a recently published document is corrected. Corrections to the regulatory text should identify the CFR unit being corrected. (See page 68 for examples of correction documents.)

EXAMPLE 41: CORRECTED.

On page 00000 in the issue of March 15, 1986, in the second column, the reference in § 39.10(a)(1) to "§ 44.10" is corrected to read "§ 44.20".

On page 00000 in the issue of May 3, 1986, in the third column, in § 20.15(c) introductory text, "Director" is corrected to read "Acting Director".

Redesignated. Redesignated means that a CFR unit is transferred to another position and assigned a new designation. A redesignation must be made before adding a new unit of text to an area vacated by the redesig-

nation. If the newly redesignated CFR unit is also revised, this must be stated in the amendatory language.

EXAMPLE 42: REDESIGNATED.

In 44 CFR Chapter II, Part 20 is redesignated as Part 30.

In § 100.5, paragraphs (a) through (c) are redesignated as paragraphs (d) through (f) and new paragraphs (a) through (c) are added to read as follows:

Part 20 is redesignated as Part 30 and revised to read as follows:

In Part 226, §§ 226.3 through 226.5 are removed and §§ 226.6 through 226.8 are redesignated as §§ 226.3 through 226.5 respectively.

Stayed or **Suspended.** Stayed or suspended means that a regulation is deferred temporarily or indefinitely. The amendatory language must cite the CFR unit affected. The content of the CFR is not changed. A stay or suspension means that the regulation is not currently in force.

Withdrawn. Withdrawn is a term which is used differently in proposed rule and rule documents.

- In a proposed rule document, withdrawn is used to indicate that a previously published proposed rule will not be issued as a final regulation.
- In a final rule document, withdrawn is used to indicate that a final rule with a pending effective date will not go into effect.

Display of amendatory language with regulatory text

All changes to CFR units must be completely described in the amendatory language.

Usually the amendatory language describing all changes to one section is presented in a single instruction, and the changed text for the section is presented immediately following the instruction. (See instruction number 2 in example 43.)

When there are changes to several sections, the amendatory language is usually presented in separate numbered instructions for each section, and the changed text for the section follows each instruction. (See instructions 2 through 4 in example 43.)

EXAMPLE 43.

PART 1258—FEES

1. The authority citation for Part 1258 is revised to read as follows:

Authority: 44 U.S.C. 2116(c).

2. Section 1258.2 is amended by revising paragraphs (a) and (c)(3) to read as follows:

§ 1258.2 Applicability.

(a) Except as otherwise provided in this section, fees for the reproduction of NARA administrative records, archival records, donated historical materials, and records filed with the Office of the Federal Register are as set forth in § 1258.12.

* * * * *

(c) * * *

(3) Motion picture and sound and video recording materials among the holdings of the National Archives. Prices for reproduction of these materials are available from the Motion Picture and Sound and Video Branch, National Archives (NNSM), Washington, DC 20408.

* * * * *

3. Section 1258.4 is amended by revising paragraph (b) to read as follows:

§ 1258.4 Exclusions.

* * * * *

(b) When NARA wishes to disseminate information about its activities to the general public through press, radio, television, and newsreel representatives;

* * * * *

4. Section 1258.10 is amended by revising paragraph (a) to read as follows:

§ 1258.10 Mail orders.

(a) There is a minimum fee of $5.00 per order for reproductions which are sent by mail to the customer.

* * * * *

However, there may be occasions when the amendatory instruction can include amendatory language for more than one part or more than one section within a part as shown in example 44.

EXAMPLE 44.

Parts 150 and 153 are revised to read as follows:

[Text of Parts 150 and 153]

Sections 33.1, 33.5 and 33.10 are added to read as follows:

[Text of §§ 33.1, 33.5 and 33.10]

Amendments should be presented in CFR codification order. Combinations as shown in example 44 would be inappropriate if there were amendments to Part 152 in the first case, or to any of the intervening sections in the second case.

Nomenclature change

Nomenclature change indicates that a term or phrase is changed throughout a CFR unit. It is commonly used to change an office designation or the title of an agency official. The OFR may require a marked-up copy of the appropriate CFR volume if there are numerous nomenclature changes. This is to ensure that the changes are correctly made every place the term appears.

EXAMPLE 45.

§ 720.7 [Amended]

In 12 CFR 720.7(c)(2) remove the words "Deputy Administrator" and add, in their place, the words "Vice-Chairman of the National Credit Union Administration Board".

§§ 720.7, 720.20, 720.22, 720.24, 720.26, and 720.27 [Amended]

In addition to the amendments set forth above, in 12 CFR Part 720 remove the words "Assistant Administrator for Administration" and add, in their place, the words "Director of the Office of Administration" in the following places:

(a) Section 720.7(a)(1), (c)(2), and (c)(3);

(b) Section 720.20(b);

(c) Section 720.22(a);

(d) Section 720.24(a) and (b)(3);

(e) Section 720.26(a); and

(f) Section 720.27(a) and (c).

In Part 315 all references to "Domestic Commerce" throughout Part 315 are revised to read "Domestic Business Development".

§§ 780.40, 780.41, and 780.42 [Amended]

In the list below, for each section indicated in the left column, remove the title indicated in the middle column from wherever it appears in the section, and add the title indicated in the right column:

Section	Remove	Add
780.40	Assistant Secretary for Housing Production and Mortgage Credit	Assistant Secretary for Housing

Section	Remove	Add
780.41	Assistant Secretary for Housing Production and Mortgage Credit (HPMC)—Federal Housing Commissioner	Assistant Secretary for Housing—Federal Housing Commissioner
780.42	Deputy Assistant Secretary for Housing Production and Mortgage Credit—Deputy Federal Housing Commissioner	Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner

If the amendments to a section or unit of the CFR are extensive, it is better to set the text out in full rather than have many fragmentary amendments. The reader then has the complete text of the CFR unit.

Addition or revision of a part or subpart

The addition or revision of a part requires the elements listed below. The elements must appear in the order listed.

- Amendatory language.
- Part heading.
- Table of contents.
- Authority citation.
- Regulatory text.

In example 46, only a portion of Part 266 is shown. The complete text must be included in any agency document adding or revising a part.

The addition or revision of a subpart follows the format requirements for the addition or revision of a part except for the display of the authority citation as discussed on page 21.

EXAMPLE 46.

Amendatory language	25. Part 266 is added to read as follows:
Part heading	PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES
	Subparts A–B—[Reserved]
	Subpart C—Recyclable Materials Used in a Manner Constituting Disposal
	Sec. 266.20 Applicability. 266.21 Standards applicable to generators and transporters of materials used in a manner that constitutes disposal. 266.22 Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users. 266.23 Standards applicable to users of materials that are used in a manner that constitutes disposal.
	Subpart D—Hazardous Waste Burned for Energy Recovery
	266.30 Applicability. 266.31 Prohibitions. [Reserved]
Table of contents (Must correspond to headings in the regulatory text)	266.32 Standards applicable to generators of hazardous waste fuel. 266.33 Standards applicable to transporters of hazardous waste fuel. 266.34 Standards applicable to marketers of hazardous waste fuel. 266.35 Standards applicable to burners of hazardous waste fuel. 266.36 Conditional exemption for spent materials and byproducts exhibiting a characteristic of hazardous waste.
	Subpart E—[Reserved]
	Subpart F—Recyclable Materials Utilized for Precious Metal Recovery
	266.70 Applicability and requirements.
	Subpart G—Spent Lead-acid Batteries Being Reclaimed
	266.30 Applicability and requirements.
Authority citation	Authority: 42 U.S.C. 6905, 6912(a), and 6924.
	Subparts A–B—[Reserved]
	Subpart C—Recyclable Materials Used in a Manner Constituting Disposal
	§ 266.20 Applicability.
Regulatory text	(a) The regulations of this subpart apply to recyclable materials that are applied to or placed on the land: (1) Without mixing with any other substance(s); or (2) After mixing with any other substance(s), unless the recyclable material undergoes a chemical reaction so as to become inseparable from the other substance(s) by physical means; or * * * * *

Amendment to a section

Each amendment at the section level requires five elements. These elements must appear in the order listed.

- Part heading.
- Authority citation.
- Amendatory language.
- Section heading.
- Regulatory text.

If a section is added or revised, use the format shown in example 47.

EXAMPLE 47.

Part heading	PART 133—TOLLS FOR USE OF CANAL
Amendatory language	1. The authority citation for Part 133 is revised to read as follows:
Authority citation	Authority: Issued under authority of the President by 22 U.S.C. 3791; E.O. 12215, 45 FR 36043.
Amendatory language	2. Section 133.34 is revised to read as follows:
Section heading	§ 133.34 Tolls for vessels in ballast.
Regulatory text	In order for a vessel to secure the reduced rate of toll for vessels in ballast, it may not be carrying any passengers or cargo nor any fuel for its own consumption in a quantity which exceeds either— (a) 125 percent of the volume of its engine room as measured and as shown on its Panama Canal tonnage certificate; or (b) The spaces on the vessel which are available for the carriage of fuel (i.e., the actual volume of tanks or fixed compartments, including settling tanks, used for the storage of lubricating oil or fuel, which spaces cannot be used to stow cargo or stores and which have been certified by official marking to be spaces for the vessel's own fuel).

If a section is added to a part which contains subparts, identify the subpart which will contain the new section.

Asterisks. If the entire section is not being revised, the agency may set out text for only the paragraphs being amended by using asterisks in place of unchanged material. The asterisks represent the codified material within the section that is not altered by the amendment. Use five asterisks in a row to indicate that one or more paragraphs are not being amended.

If less than a paragraph is being revised, the agency may also use asterisks in place of unchanged material. Use three asterisks in a row to indicate that text within a paragraph is not being amended.

If a paragraph designation without any text appears in the display of an amendment, that designation would be followed by a row of three asterisks. For example, to show a revision to the last sentence of paragraph (b)(2)(iii), place a row of five asterisks below the section heading to represent paragraph (a), place a row of three asterisks after "(b)," place a row of three asterisks after "(2)," and place a row of three asterisks and the revised text of the last sentence after "(iii)." Finally, place a row of five asterisks below the revised text of the last sentence if an unchanged paragraph follows (b)(2)(iii).

EXAMPLE 48.

Part heading	PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS
Authority citation	1. The authority citation for Part 216 continues to read as follows:
	Authority: 16 U.S.C. 1361–1407.
Amendatory language	2. Section 216.24 is amended by revising paragraphs (b)(1)(v), the first sentence of (b)(3), (c)(2), (c)(4)(i) introductory text, and adding paragraph (b)(1)(vi) to read as follows:
Section heading	§ 216.24 Taking and related acts incidental to commercial fishing operations.
Indicates paragraph (a) unchanged	* * * * *
Indicates paragraph (b) introductory text unchanged	(b) * * *
Indicates paragraphs (b)(1) introductory text and (b)(1)(i)–(iv) unchanged	(1) * * *
Revised paragraph (b)(1)(v)	(v) Category 5: Other gear. Commercial fishing operations utilizing trolling, gill nets, hook and line gear, and any gear not classified under paragraph (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(iv), or (b)(1)(vi) of this section.
Added paragraph (b)(1)(vi)	(vi) Category 6: Commercial passenger fishing vessel operation. Commercial fishing operations from a commercial passenger fishing vessel for the purpose of active sport fishing as defined in § 216.3.
Indicates paragraph (b)(2) unchanged	* * * * *
Revised first sentence of paragraph (b)(3)	(3) The original and two copies of the application for general permit must be submitted to the Assistant
Indicates remainder of paragraph (b)(3) unchanged	Administrator. * * *
Indicates paragraphs (b)(4)–(7) unchanged	* * * * *
Indicates paragraph (c) introductory text and (c)(1) unchanged	(c) * * *
Revised paragraph (c)(2)	(2) Operator's certificate of inclusion. The person in charge of and actually controlling fishing operations (after this referred to as the operator) on a vessel engaged in commercial fishing operations for which a Category 2 or Category 6 general permit is required under this subpart, must be the holder of a valid operator's certificate of inclusion. These certificates are not transferable and will be valid only on a vessel having a valid vessel certificate of inclusion for the same category. In order to receive a certification of inclusion, the operator must have satisfactorily completed required training. An operator's certificate of inclusion must be renewed annually.
Indicates paragraph (c)(3) unchanged	* * * * *
Indicates paragraph (c)(4) introductory text unchanged	(4) * * *
Revised paragraph (c)(4)(i) introductory text	(i) Category 1, 3, 4, 5, and 6 applications:
Indicates remainder of section unchanged	* * * * *

Table of contents

A table of contents is required in a document that—

- Adds a new part or subpart;
- Revises an existing part or subpart; or
- Adds or revises two or more sections grouped under a centered heading.

Table of contents entries must be identical with part, subpart, and section headings displayed in the regulatory text.

Changes to a table of contents need not be presented in a document that adds or amends a single section or miscellaneous sections. These changes are made when the amendments are included in the CFR.

However, if an agency chooses to show changes to the table of contents to a part resulting from amendments to individual sections set out later in the document, the agency must include the table of contents changes in the list of amendments and use appropriate amendatory language to describe the changes. The simplest procedure is to state that the table of contents is revised and then set out the complete table of contents. If the table of contents is too lengthy to make this procedure practical, the agency must use amendatory terms like "revised," "added," or "redesignated" and then set out the revised, added, or redesignated section headings. Five asterisks would be used to account for unchanged entries. Section headings that are removed are not set out; the use of the term "removed" in the amendatory language is sufficient to indicate the removal.

OMB control number

To display an OMB control number in a regulation, the agency must either place the number parenthetically at the end of the appropriate section of the regulatory text (example 49), or display the number in the regulatory text of a section devoted to OMB control numbers (example 50).

EXAMPLE 49.

§ 264.51 Purpose and implementation of contingency plan.

(a) Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

(Approved by the Office of Management and Budget under control number 2050–0011)

EXAMPLE 50.

§ 1033.2 Display of control numbers.

The following rules enforced by the Consumer Product Safety Commission containing collection of information requirements are listed with the control numbers assigned by the Office of Management and Budget:

Part or section of Title 16 Code of Federal Regulations	Currently assigned OMB control no.
Part 1019	3041–0003
Part 1204	3041–0006
Part 1207	3041–0023
Part 1209	3041–0022
Part 1212	3041–0021
§ 1500.86(a)(4)	3041–0019

Part or section of Title 16 Code of Federal Regulations	Currently assigned OMB control no.
§ 1506.10	3041–0013
§ 1509.12	3041–0012
Parts 1610 and 1611	3041–0024
Parts 1615 and 1616	3041–0027
Parts 1630 and 1631	3041–0017
Part 1632	3041–0014

Cross references

The Administrative Procedure Act requires that an agency separately state its regulations. A cross reference enables an agency to substitute a reference to a CFR unit for the publication of the full text of that unit. Cross references are permitted only in the following situations.

AGENCY REFERENCING ITS OWN REGULATIONS

An agency may make references to its own regulations, but in doing so it must not make modifications to the regulations referenced. If any modifications need to be made, the regulations must be published separately in full text.

AGENCY REFERENCING ANOTHER AGENCY'S REGULATIONS

An agency may cross reference the regulations of another agency only if the OFR finds that the reference meets any one of the following conditions specified in 1 CFR 21.21:

- The reference is required by court order, statute, Executive order or reorganization plan;
- The reference is to regulations promulgated by an agency with the exclusive legal authority to regulate in a subject matter area, but the referencing agency needs to apply those regulations in its own programs;
- The reference is informational or improves clarity rather than being regulatory;
- The reference is to test methods or consensus standards produced by a Federal agency that have replaced or preempted private or voluntary test methods or consensus standards in a subject matter area; or
- The reference is to the departmental level from a subagency.

If an agency is thus qualified to cross reference another agency's regulations, it still cannot make modifications to the regulations referenced. If any modifications need to be made, the regulations must be published separately in full text rather than as a cross reference.

When making references, the agency must identify the CFR unit being cited by the proper CFR unit designation in each reference. A non-specific reference, such as "herein," "above," or "below," requires interpretation by the reader and may result in ambiguity. Example 51 covers the most common reference situations and illustrates the proper style for each reference.

EXAMPLE 51

REFERENCES TO A DIFFERENT TITLE

- In Title 6, when referencing—
  —Title 1, Chapter I . . . write . . . 1 CFR Chapter I.
  —Title 1, Chapter I, Part 2 . . . write . . . 1 CFR Part 2.
  —Title 1, Chapter I, Part 2, §2.7 . . . write . . . 1 CFR 2.7.
  —Title 1, Chapter I, Part 2, § 2.7, paragraph (a)(2) . . . write . . . 1 CFR 2.7(a)(2).

REFERENCES WITHIN THE SAME TITLE

- In Chapter I, when referencing Chapter II . . . write . . . Chapter II of this title.
- In Part 100 (Chapter I), when referencing Part 300 (Chapter III) . . . write . . . Part 300 of this title.
- In § 250.10 (Chapter I), when referencing § 300.19 (Chapter III) . . . write . . . § 300.19 of this title.

REFERENCES WITHIN THE SAME CHAPTER

- In Part 20, when referencing Part 30 . . . write . . . Part 30 of this chapter.
- In § 20.10, when referencing Subpart A of Part 30 . . . write . . . Part 30, Subpart A of this chapter.
- In § 20.10, when referencing § 30.19 . . . write . . . § 30.19 of this chapter.

REFERENCES WITHIN THE SAME PART

- In § 20.5, when referencing Subpart A of Part 20 . . . write . . . Subpart A of this part.
- In § 20.5, when referencing § 20.15 . . . write . . . § 20.15 of this part.
- In § 20.5, when referencing § 20.15, paragraph (a) . . . write . . . § 20.15(a) of this part.

REFERENCES WITHIN THE SAME SECTION

- In paragraph (a), when referencing paragraph (b) . . . write . . . paragraph (b) of this section.
- In paragraph (a), when referencing paragraph (b)(1) . . . write . . . paragraph (b)(1) of this section.
- In paragraph (a)(1), when referencing paragraph (a)(2) . . . write . . . paragraph (a)(2) of this section.
- In paragraph (a)(1)(i), when referencing paragraph (a)(1)(ii) . . . write . . . paragraph (a)(1)(ii) of this section.

Incorporation by reference

Purpose. Incorporation by reference allows Federal agencies to comply with the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. The legal effect of incorporation by reference is that the material is treated as if it were published in the Federal Register. This material, like any other properly issued regulation, has the force and effect of law. Incorporation by reference was authorized by Congress in the Freedom of Information Act to reduce the volume of material published in the Federal Register and Code of Federal Regulations (CFR).

Eligibility. The Director of the Federal Register is authorized to decide when an agency may incorporate material by reference. The Director may approve an incorporation by reference if the material meets the requirements of 1 CFR Part 51.

Material is eligible for incorporation by reference if the incorporation—

- Is published data, criteria, standards, specifications, techniques, illustrations, or similar material;
- Is reasonably available to and useable by the class of persons affected by the publication;
- Does not reduce the usefulness of the Federal Register publication system;
- Benefits the Federal Government and members of affected classes;
- Substantially reduces the volume of material published in the Federal Register.

The Director will assume that a publication produced by the same agency that is seeking its approval is inappropriate for incorporation by reference. A publication produced by the agency may be approved—

- If, in the judgment of the Director, it meets the requirements above and possesses other unique or highly unusual qualities; or
- If it cannot be printed using the Federal Register/Code of Federal Regulations printing system.

The following materials are not appropriate for incorporation by reference:

- Material published previously in the Federal Register.
- Material published in the United States Code.

Submission of request. Each agency must submit a written request for incorporation by reference for approval from the Director of the Federal Register. The request must be submitted at least 20 working days before the final rule document is submitted to the Office of the Federal Register (OFR) for publication. This 20 day period begins when the OFR receives—

- A letter requesting approval of the incorporation;
- A copy of the material to be incorporated; and
- A copy of the final rule document that uses the proper language of incorporation.

The OFR will notify the requesting agency of the decision to approve or disapprove an incorporation by reference within 20 working days after the agency has met all the requirements for requesting approval.

Drafting requirements. Statements of incorporation by reference contained in regulatory text must meet specific drafting standards. Each statement of incorporation by reference must—

- Include the words "incorporation by reference";
- Identify the standard and/or material to be incorporated, including the title, date, edition, author, publisher, and identification number of the publication;
- Contain a statement of availability stating where and how copies may be examined and obtained; and
- Refer to 5 U.S.C. 552(a) or include an approval statement that the Director of the Federal Register approves the incorporation by reference.

EXAMPLE 52: INCORPORATION BY REFERENCE LANGUAGE.

The procedure shall be done in accordance with (insert the name of the standard and/or material to be incorporated including title, date, author, publisher and identification number of the publication). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from (insert the name of standard producer or publisher and address). Copies may be inspected at (insert the name of the agency and address) or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

The preamble of the final rule document must make reference to incorporation by reference in two locations:

- The DATES caption (see page 14) must include an approval statement that indicates the effective date of the incorporation by reference as approved by the Director of the Federal Register.

EXAMPLE 53.

EFFECTIVE DATE: This regulation is effective ————. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of ————.

- The List of Subjects (see page 18) in the SUPPLEMENTARY INFORMATION must include the term "Incorporation by reference."

Changes to or removal of an approved incorporation by reference. An agency that needs to update references to material incorporated by reference must—

- Publish an amendment to the CFR in the Federal Register.
- Ensure that a copy of the incorporated material as amended or revised is on file at the Office of the Federal Register.
- Notify the Director of the Federal Register in writing that the change is being made.

If the regulation containing the incorporation by reference does not go into effect or is removed from the Code of Federal Regulations, the agency must notify the Director of the Federal Register in writing within five working days of the occurence.

Interim rule

An interim rule is a rule that is usually issued without prior notice of proposed rulemaking. An immediate effective date is generally specified and comments on the interim rule may be requested. The interim rule is designed to respond to an emergency situation and is usually followed by a final rule document which confirms that the interim rule is final and may include further amendments. If an interim rule is in effect as of the revision date of the CFR volume, it will be included in that volume.

EXAMPLE 54: INTERIM RULE ADOPTED AS FINAL WITHOUT CHANGE.

PART 78—BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 50 FR 5547–5548 on February 11, 1985, is adopted as a final rule without change.

EXAMPLE 55: INTERIM RULE ADOPTED AS FINAL WITH CHANGE.

Accordingly, the interim rule amending 9 CFR Part 51 which was published at 47 FR 53320–53325 on November 26, 1982, is adopted as a final rule with the following change:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for Part 51 continues to read as follows:

Authority: (agency insert appropriate citation).

2. Section 51.9(h) is revised to read as follows:

§ 51.9 Claims not allowed.

* * * * *

(h) If any known brucellosis reactor animal remains in the herd, unless, in the opinion of the Veterinarian in Charge, a reasonable search has been made for the brucellosis reactor animal and the brucellosis reactor animal could not be found and removed.

Two sample documents suitable for publication in the Federal Register follow. The first is a six page rule document, and the second is an excerpt from the beginning of a proposed rule document. While these sample documents do not show an original signature, any original document actually submitted for publication must be signed by a person authorized by the agency. (See page 61 for signature requirements.)

7515-01

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

NARA Fee Schedule

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule revises fees charged by the National Archives and Records Administration (NARA) for reproduction of NARA administrative records, archival records, donated historical materials, and records filed with the Office of the Federal Register. The fees apply to reproductions made pursuant to routine reference requests, mandatory review requests, FOIA requests, and Privacy Act requests. The fees are changed to reflect the current costs of providing the reproduction services.

EFFECTIVE DATE: January 2, 1986.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202-523-3214 (FTS 523-3214).

SUPPLEMENTARY INFORMATION:

NARA published a notice of proposed rulemaking on the revision of the NARA fee schedule in the Federal Register on October 21, 1985 [50 FR 42572]. Three comments were received. Two commenters requested NARA to install a self-service copier at our Laguna Niguel facility and impose a fee of $0.25 per copy for its use. The third commenter also asked that NARA consider installing self-service copy machines but

did not recommend a fee. Both the proposed and final rule include a fee of $0.20 per copy for paper-to-paper copies and $0.30 or $0.80, depending on the type of machine used, for microfilm-to-paper copies made by the customer on NARA self-service copiers. All NARA fees are set to recover to the exent practicable the costs of making the copies. The location of individual self-service copiers is outside the scope of this regulation; however, NARA is reviewing locations where self-service copiers may be appropriate.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1258

Archives and records.

For the reasons set forth in the preamble, 36 CFR Part 1258 is amended as follows:

PART 1258--FEES

1. The authority citation for Part 1258 is revised to read as follows:

Authority: 44 U.S.C. 2116(c).

2. Section 1258.2 paragraphs (a) and (c)(3) are revised and paragraph (c)(7) is removed and reserved as follows:

§1258.2 Applicability.

(a) Except as otherwise provided in this section, fees for the reproduction of NARA administrative records, archival

records, donated historical materials, and records filed with the Office of the Federal Register are as set forth in §1258.12.

* * * * *

(c) * * *

(3) Motion picture and sound and video recording materials among the holdings of the National Archives. Prices for reproduction of these materials are available from the Motion Picture and Sound and Video Branch, National Archives (NNSM), Washington, DC 20408.

* * * * *

3. Section 1258.4 paragraph (b) is revised to read as follows:

§1258.4 Exclusions.

* * * * *

(b) When NARA wishes to disseminate information about its activities to the general public through press, radio, television, and newsreel representatives;

* * * * *

4. Section 1258.10 paragraph (a) is revised to read as follows:

§1258.10 Mail orders.

(a) There is a minimum fee of $5.00 per order for reproductions which are sent by mail to the customer.

* * * * *

5. Section 1258.12 is revised to read as follows:

§1258.12 Fee schedule.

(a) Authentication: $2.00

(b) Still photography:

(1) Copy negatives (Black & White):

4 in. by 5 in.	$3.60
8 in. by 10 in.	5.45

(2) Copy negatives (Color):

4 in. by 5 in.	$ 9.35
8 in. by 10 in.	18.95

(3) Slides (from an existing negative):

2 in. by 2 in. (Black & White)	$1.55
2 in. by 2 in. (Color)	2.65

(4) Photographic prints (Black & White):

8 in. by 10 in.	$ 4.15
11 in. by 14 in.	6.65
16 in. by 20 in.	7.65
20 in. by 24 in.	9.25
22 in. by 28 in.	12.75
24 in. by 30 in.	12.75
30 in. by 40 in.	15.35

(5) Aerial prints:

10 in. by 10 in.	4.75
14 in. by 14 in.	8.20
18 in. by 18 in.	9.20
20 in. by 24 in.	9.50
27 in. by 28 in.	14.25
40 in. by 41 in.	16.65

(c) Electrostatic copying:

(1) Paper to paper (up to 11 in. by 17 in.):

Customer performs the work at NARA self-service copier	$ .20
Customer tabs documents for NARA copying	.30
NARA identifies documents for NARA copying	.35

(2) Oversized electrostatic copies (per foot): $1.65

Add per foot for vellum paper .20

(3) Microfilm to paper:

From negative (copy flow), per foot $ .55
From positive:

	Up to 11 in. by 17 in.	18 in. by 24 in.
Work done by customer	$ .30	$ .80
NARA performs the work		
First copy per roll	1.85	2.35
Next consecutive frame or duplicate	.80	1.30
Next nonconsecutive frame	.95	1.50

(d) Diazo (per foot): $1.15

(e) Microfilm:

	16mm Rotary	16mm Planetary	35mm Planetary	35mm Oversize
(1) Negative (per frame):				
Customer tabs documents for filming	.25	.25	.25	.35
NARA tabs documents for filming	.30	.30	.30	.40
(2) Next generation (per foot):		.29	.31	
(3) Direct duplicate (per foot):		.30	.33	

(f) 105mm microfilm/microfiche (per frame/fiche): $4.50

(g) Technical services:

	Regular	Overtime
Photographer (per hour)	$11.00	$16.50
Microfilm preparation (per hour)	9.50	14.25
Sound & video recordings	11.50	17.25

(h) Preservation of records. In order to preserve certain records which are in poor physical condition, NARA may restrict customers to a choice of photostatic or microfilm copies instead of electrostatic copies.

(i) Unlisted processes. Fees for reproduction processes not listed in §1258.12 are computed upon request.

6. Section 1258.16 is revised to read as follows:

§1258.16 Effective date.

The fees in §1258.12 are effective on January 2, 1986.

FRANK G. BURKE
Acting Archivist
of the United States

7515-01

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

Use of NARA research rooms

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed rulemaking.

SUMMARY: NARA proposes to amend its regulations on the use of personal copiers and other types of personal items that may be brought into research rooms in the National Archives Building and Washington National Records Center. NARA also proposes to add procedures for use of the self-service high-volume copier in the National Archives Building. These changes are being made to enhance the security of records being used by the public and to ensure proper handling of records while they are being reproduced.

DATE: Comments must be received by [insert date 60 days after date of publication].

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202-523-3214 (FTS 523-3214).

SUPPLEMENTARY INFORMATION:

This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that

this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR Part 1254 as follows:

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101 - 2118

2. Section 1254.26 is added to read as follows:

§1254.26 Additional rules for use of certain research rooms in the National Archives Building and the Washington National Records Center.

(a) The following procedures shall be observed for use of all archival research rooms in the National Archives Building and in the Washington National Records Center except the Microfilm Research Room and the Motion Pictures Research Room in the National Archives Building. These procedures are in addition to the procedures specified elsewhere in this Part.

(b) All researchers entering the National Archives Building shall complete the Equipment Log at the guard's desk in the lobby in order to bring personal typewriters, tape recorders, cameras, etc., into the building. The log will evidence personal ownership and will be checked by the guard when such equipment is removed from the building.

(c) Researchers shall present a valid researcher identification card to the guard or research room staff on entering

CHECKLIST FOR RULE AND PROPOSED RULE DOCUMENTS

Billing Code: Is the billing code at the top of first page? (See page 58.)

Classification: Does it affect or relate to rules or proposed rules? Has the preamble format been used? (See pages 6 through 8 and 12.)

Headings: Do the proper agency, CFR citation and subject headings precede the preamble? (See page 11.)

Preamble: Are all required elements of the preamble included? (See page 12.) Does the SUMMARY answer all three questions? (See page 14.)

List of Subjects: Are subject terms listed for each CFR part affected? Are they placed at the end of the preamble? (See page 18.)

Authority citation: Is the U.S.C. cite included as either the first item of amendatory language for each part affected or at the end of the table of contents if a part is set out. (See page 19.)

Amendatory language:

- Does it specify the exact unit being changed? (See page 28.)
- Does it use the correct term to describe the type of change? (See page 28.)
- Does it describe the change to the CFR accurately? Use the latest CFR volume and the LSA. (See page 26.)

Table of contents: Include for each subpart or part being set out in full. (See page 36.) Do entries agree with the part, subpart and section headings as set out in the regulatory text?

Paragraph numbers: Are all paragraphs of CFR text lettered or numbered correctly? (See page 23.)

OMB control numbers: Are OMB control numbers for information collection requirements included with the regulatory text? (See page 36.)

Signature and title:

- Is original signature (hand–signed in ink) included? (One person may not sign for another or initial a signature.) (See page 61.)
- Is signer's name and title typed beneath actual signature? (See page 61.)

Quality:

- Are original and copies clear and legible? (See page 71.)
- Is the document free of correction tape?
- Are ink changes printed, dated and initialed on all three copies?

Page numbers: Are all pages numbered consecutively? (See page 57.)

Matching copies and certification:

- Are the original and the copies identical? Are all pages included?
- Are the copies of the document properly signed or certified? (See page 61.)

Chapter IV—Notice Document Requirements

Notices are agency documents published in the Federal Register that do not contain regulatory text, impose requirements with general applicability and legal effect, or affect a rulemaking proceeding. Although some notices are required to be published by law, many are published by agencies to provide general information of public interest.

Typical notice documents announce—

- Meetings (see page 53 for notice published pursuant to the Sunshine Act);
- Applications;
- Issuance or revocation of a license;
- Grant application deadlines;
- Availability of certain environmental impact statements;
- Certain petitions; and
- Orders or decisions affecting named parties.

Notice documents must meet certain publication requirements set by the OFR. These requirements include proper headings, citation of authority, and signature. (See also typing and format requirements, page 57.)

Headings

Each notice document must begin with a series of headings that identify the issuing agency and subject matter of the document. Headings for a notice document must be presented in this format.

Agency

Subagency (If necessary)

Agency number (Optional)

Subject heading

The first heading, the "Agency" heading, should identify the name of the agency issuing the document. A document issued by a Cabinet-level agency may carry a "Subagency" heading. In that instance the department is the "Agency" heading and the subordinate issuing unit is the "Subagency" heading.

The "Agency number" heading identifies the document within the internal filing system of the agency. This heading is optional and may be used when applicable.

The "Subject" heading should be a concise statement describing the document.

EXAMPLE 56.

DEPARTMENT OF AGRICULTURE
Food Safety and Inspection Service
[Docket No. 85-008N]
Transportation Accidents

Authority citation

A notice document shall indicate the authority under which it is issued (1 CFR 22.2). The authority citation may appear in narrative form within text or in parentheses on a separate line following text.

Signature

Every notice document must be signed by a person authorized by the agency. See page 61 for signature requirements.

Preamble format

The OFR recommends that an agency use for notice documents the same preamble format required for a rule or proposed rule document.

AGENCY:

ACTION:

SUMMARY:

DATES:

ADDRESSES:

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

If an agency uses the preamble format it may omit captions of the format which are not applicable, but the remaining captions should be presented in the proper sequence. An agency must not create new captions for the format — material not identified by the existing captions should be placed in SUPPLEMENTARY INFORMATION.

EXAMPLE 57.

AGENCY: Environmental Protection Agency.
ACTION: Notice.
SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit extension has been granted to the Kentucky Utilities Company. This action extends the PSD permit (PSD-KY-137) deadline for the commencement of construction of an electric utility to be located in Hancock County, Kentucky until March 5, 1986.
DATES: This action is effective as of July 24, 1985, and grants an 18-month permit extension beginning September 5, 1984, and expiring on March 5, 1986.
ADDRESSES: Copies of the request for an extension and supporting documentation are available for public inspection upon request at the following location:

Environmental Protection Agency, Region IV
Air Programs Branch
Air, Pesticides, & Toxics Management Division
345 Courtland Street, NE.
Atlanta, GA 30365

FOR FURTHER INFORMATION CONTACT: Wayne Aronson of the EPA—Region IV Air Programs Branch at the Atlanta address given above; telephone 404/881-4901, (FTS) 257-4901.
SUPPLEMENTARY INFORMATION:
* * * * *
Therefore, to prevent the PSD approval from becoming invalid, Kentucky Utilities must commence construction on Unit 1 of the Hancock County facility by March 5, 1986, and commence construction on Unit 2 by 18 months later, September 5, 1987. Construction on either of the units may not be discontinued for a period of 18 months or more, and construction must be completed within a reasonable time.
(Sections 160-169 of the Clean Air Act (42 U.S.C. 7470-7479))
* * * * *

The AGENCY caption should match the "Agency" and, when appropriate, "Subagency" headings. When a subagency and agency name appear together, the subagency name is carried first and the agency name is represented by its commonly used acronym or other shortened expression. (See page 13 for examples.) This caption may, in addition, identify a smaller organizational unit within the agency.

The ACTION caption should identify the document category. Additional qualifiers, as shown in example 58, may be used. However, this caption should not be used to summarize the document.

EXAMPLE 58.

ACTION: Notice.
ACTION: Notice of meeting.
ACTION: Notice of availability.
ACTION: Notice of intent.
ACTION: Notice of application.

The SUMMARY should briefly state in simple language what action is being taken, why the action is necessary, and the intended effect of the action. Extensive dicussion belongs under the SUPPLEMENTARY INFORMATION caption.

The DATES caption, when used, should contain any pertinent dates the reader may need to know. If a specific date must be tied to Federal Register publication, the OFR editor can compute and insert the correct date. See page 14 for the proper format.

The ADDRESSES caption, when used, should contain pertinent addresses the reader may need to know.

The FOR FURTHER INFORMATION CONTACT caption should include the name and telephone number of a person within the agency who can answer questions about the document.

The SUPPLEMENTARY INFORMATION should contain the remainder of the necessary information of the document. It does not contain a List of Subjects. It should contain any authority citation, Federal Register citation to a previously published document, or CFR citation when appropriate. References to the Federal Register and the Code of Federal Regulations should follow the format on page 59.

Sunshine Act documents

Sunshine Act documents are notices of meetings required to be published under the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)). They are published in a separate section of the Federal Register under special formatting requirements. This system allows the agency to present statutorily required information in a clear and efficient manner while providing public notice as quickly as possible.

Format. The OFR has developed three format variations covering the types of announcements an agency may be required to publish. The agency is encouraged to submit each Sunshine Act meeting notice in the appropriate

standard format. Examples 59 through 61 illustrate the specifics of each format.

EXAMPLE 59: FORMAT 1—ANNOUNCES A MEETING EITHER COMPLETELY OPEN OR COMPLETELY CLOSED TO THE PUBLIC.

Billing Code
{Name of the Agency}
TIME AND DATE:
PLACE:
STATUS:
MATTERS TO BE CONSIDERED:
CONTACT PERSON FOR MORE INFORMATION:
Signature
Name of signer typed
Title of signer

EXAMPLE 60: FORMAT 2—ANNOUNCES A MEETING THAT IS PARTIALLY OPEN AND PARTIALLY CLOSED TO THE PUBLIC.

Billing Code
{Name of the Agency}
TIME AND DATE:
PLACE:
STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.
MATTERS TO BE CONSIDERED:
PORTIONS OPEN TO THE PUBLIC:
* * * * *
PORTIONS CLOSED TO THE PUBLIC:
* * * * *
CONTACT PERSON FOR MORE INFORMATION:
Signature
Name of signer typed
Title of signer

EXAMPLE 61: FORMAT 3—ANNOUNCES A CHANGE TO A PREVIOUSLY ANNOUNCED MEETING.

Billing Code
{Name of the Agency}
FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:
PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:
CHANGES IN THE MEETING:
CONTACT PERSON FOR MORE INFORMATION:
Signature
Name of signer typed
Title of signer

As in all documents submitted to the OFR for publication in the Federal Register, the material must be double spaced and a signed original and two certified copies (or three originals) provided. (See page 62 for a discussion of original and certified copies.) In addition, the words "Sunshine Act Notice" should appear in the upper right-hand corner of the document to distinguish it from other meeting notices such as those published by advisory committees in the notices section of the Federal Register under the Federal Advisory Committee Act (50 U.S.C. Appendix).

Filing and publication. After reviewing the document for proper format, the OFR will place each Sunshine Act notice on public inspection. The OFR will publish correctly submitted Sunshine Act notices on a 2-day schedule. The document must be received by the OFR by 4:00 p.m. each day to meet the 2-day schedule. Documents received after 4:00 p.m. will be published on a 3-day schedule. This abbreviated schedule is available because the standardized format permits quicker processing.

CHECKLIST FOR NOTICE DOCUMENTS

Billing Code: Does the billing code appear at the top of the first page? (See page 58.)

Headings: Do the proper headings appear at the beginning of the document? (See page 51.)

Captions: If the preamble format is used, do the captions appear in the proper order? (See page 52.)

Signature and title:

- Is original signature (hand–signed in ink) included? (One person may not sign for another or initial a signature.) (See page 61.)
- Is signer's name and title typed beneath the actual signature? (See page 61.)

Quality:

- Are original and copies clear and legible? (See page 71.)
- Is the document free of correction tape?
- Are pen and ink changes printed, dated and initialed on all three copies?
- Are illustrations (or tabular material) clear and legible? (See page 71.)

Page numbers: Are all pages numbered consecutively? (See page 57.)

Matching copies and certification:

- Are the original and copies identical? Are all pages included?
- Are the copies of the document properly signed or certified? (See page 61.)

Chapter V—Submission Requirements

Typing and format

Paper. Documents should be prepared on 8½ by 11 inch bond paper or photocopy.

Single-sided copy. The text should be typed on one side only.

Margins.
- One inch at the top, bottom, and right side; and
- One and one-half inches on the left side.

Spacing. The text of a document must be double-spaced for easier copy preparation and typesetting.

The following items may be typed single-spaced:
- Quoted material.
- Footnotes and notes to tables.

Headings.
- Document headings should be typed flush with the left margin.
- Section headings should be typed flush with the left margin. Each section heading must be typed out in full on a line separate from the text of the section. Section headings should be underlined in the typed document. They will appear in bold-face type in the Federal Register.

Page numbers. The pages of a document must be numbered consecutively.

Abbreviations. Use the following conventions in abbreviating for Federal Register publication.
- FR is Federal Register. (Do not use Fed. Reg. or F.R.)
- CFR is Code of Federal Regulations. (Do not use C.F.R.)
- U.S.C. is United States Code.
- Pub. L. is Public Law. (Do not use P.L.)
- Stat. is U.S. Statutes at Large.
- 10 a.m. or p.m. is time designation.
- E.O. is Executive order.
- Proc. is Proclamation.
- sec. is section of a Public Law.

Use the symbols § for section and §§ for sections in the section heading of the regulatory text and when referencing a section or sections of the CFR. However, at the beginning of a sentence, the word must be spelled out. Do not use the § symbol or the word section when the reference follows a title number and CFR as in 36 CFR 1200.1.

Capitals. The following items should be typed in all capital letters:
- FEDERAL REGISTER.
- The name of the agency but not the name of the sub-agency in the heading of a document.
- Preamble captions.

  AGENCY:
  ACTION:
  SUMMARY:
  DATES:

ADDRESSES:
FOR FURTHER INFORMATION CONTACT:
SUPPLEMENTARY INFORMATION:

Quotations. Quoted material should be single-spaced. It should be centered block style, and presented without quotation marks.

Billing code. Each agency must insert the proper billing code on each document submitted for publication in the Federal Register.

- The complete billing code must be typed or handwritten in ink at the top of the first page of the original and the two copies of each document.
- Correct billing codes may be obtained from agency printing officers.
- Billing codes are assigned by the Government Printing Office.

Underlining. Underlining instructs the printer to set material in italics. It is used for—

- Paragraph headings;
- Scientific terms;
- Ordering statements; and
- Court cases.

Underlining should be used to highlight for the Federal Register editor—

- The section heading in the text of the regulation (the heading will appear in bold-face type in the Federal Register);
- A date to be computed. (See page 14.)

Underlining should not be used for—

- Emphasis;
- Names of books; or
- Foreign phrases.

Use quotation marks for names of books, journals, articles and similar items.

Style

Documents submitted for publication in the Federal Register should follow the "U.S. Government Printing Office Style Manual" (Revised March 1984) conventions concerning punctuation, capitalization, spelling, compounding, and other style matters. The GPO Style Manual may be obtained from the Superintendent of Documents, Government Printing Office.

For spelling of domestic geographic names consult Domestic Names Branch, U. S. Geological Survey, Department of the Interior. For spelling of foreign names consult the Geographic Names Division, Defense Mapping Agency.

For land descriptions consult the Division of Cadastral Survey, Bureau of Land Management, Department of the Interior.

An acronym should be spelled out the first time it is used.

In addition to the GPO Style Manual, the Office of the Federal Register follows two specific punctuation conventions.

- All table of contents entries end with a period.
- All items in a listing end with a punctuation mark.

References

If a document relates to a previously published Federal Register document, it must cite the earlier document precisely. References in a preamble or notice document to a previously published Federal Register document should identify the volume number, page number, and date of the issue in which the document appeared.

A reference in a preamble or notice document to material contained in the CFR should identify the CFR title and part or section number.

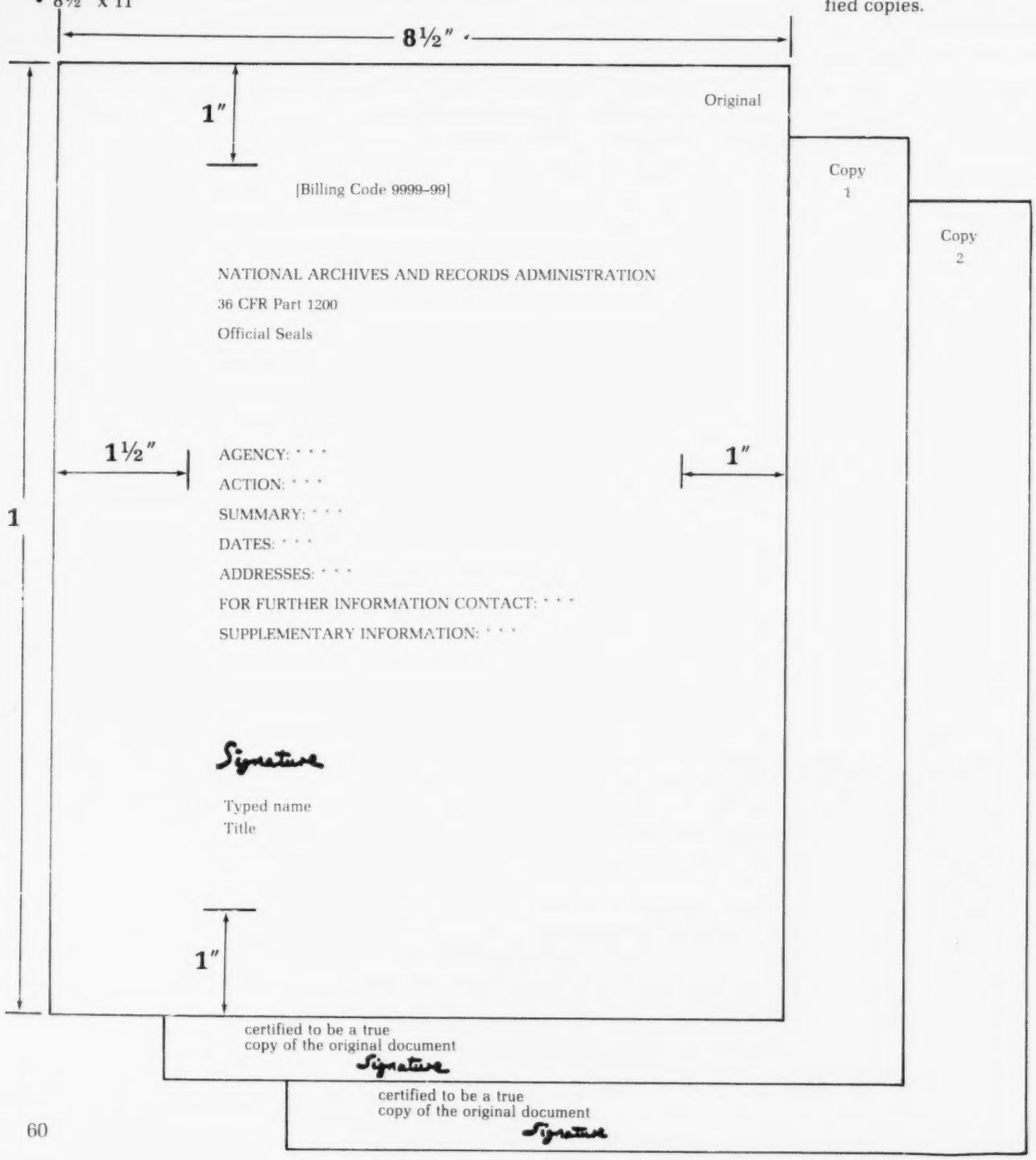
EXAMPLE 62.

50 FR 27196, July 1, 1985

To the part——36 CFR Part 1200
To the section——36 CFR 1200.1

THE DOCUMENT

- Bond paper or legible photocopy.
- 8½" x 11"
- Margins as shown.
- Double space text.
- Typed name and title.
- Ink signature.
- Three originals or one original and two certified copies.



Signature

The agency is responsible for determining who is authorized to sign a document submitted for publication in the Federal Register.

The signature must be handwritten in ink, and the name and title of the person signing the document must be typed directly beneath the handwritten signature. (See example 63.)

When, under agency delegation of authority, a person signs a document for another person, the name and title of the person who actually signs the document must be typed beneath the signature. (See example 64.)

The OFR may not accept a document signed by one person for another person in the manner shown in example 65.

EXAMPLE 63.

[Signature]
Cynthia James,
Director.

EXAMPLE 64.

[Signature]
Thomas Shadwell,
Deputy Director.

or

[Signature]
Thomas Shadwell,
Acting Director.

EXAMPLE 65.

[Signature]
Thomas Shadwell,
for Cynthia James,
Director.

The signature may not appear on a page by itself. The presence of other text on the signature page helps to ensure the integrity of the document.

The signature must be placed either at the end of the document or between the preamble and the rest of the document.

Preamble
Signature
Text

or,

Preamble
Text
Signature

Agency liaison and certifying officers

Each agency must designate employees to serve as a liaison officer and a certifying officer (1 CFR 16.1). Each officer should have an alternate.

The agency must notify the Director of the Federal Register of the name, title, address, and telephone number of each person designated. The agency must also notify the Director of any changes.

In choosing the liaison officer, the agency should consider that this officer will be the main contact between the agency and the Office of the Federal Register. Therefore, the agency should choose a person who is directly involved in the agency's regulatory program. The liaison officer and the alternate are authorized to represent the agency in all matters relating to the submission of documents and Federal Register publication requirements. They should be able to resolve any problems concerning documents submitted for publication in the Federal Register or any problems concerning the rest of the agency's regulations in the CFR.

The certifying officer is responsible for submitting the required number of copies or duplicate originals of an original document to the OFR. The certifying officer must also certify that any copies submitted with the original document are true copies by adding the following statement to the copy: "Certified to be a true copy of the original". The certifying officer must then sign the statement.

Document submission

HOW MANY COPIES OF THE DOCUMENT MUST BE SUBMITTED?

The agency must send an original and two copies of each document it submits to be filed and published in the Federal Register.

Original. The original of each document submitted by an agency is retained by the National Archives of the United States. The original document must be signed in ink by the agency official issuing the document. (See page 61.) The original document may not contain any pages that have correction tape or cut-and-paste material.

Copies. The agency must also submit two copies of each original document. The copies must be legible and identical to the original. One of the copies will be placed on public inspection and the other will be edited and sent to the Government Printing Office (GPO) for printing in the Federal Register. These copies may be submitted in one of two forms.

- **Certified copies.** Certified copies are not signed by the issuing official. The name and title of the issuing official are typed or stamped on the signature page. The agency also places a signed certification statement on the signature page. (See example 66.) The certification statement must be signed by the agency's certifying officer or that person's supervisor. (See 1 CFR Part 16, Agency Representatives.) The certifying officer attests that the copies are identical to the original document. Certification means that the certifying officer has matched the pages of the copies with the original document to ensure that they are identical and complete. Copies which do not match cause delays in publication and errors in printing. This may create legal problems for the agency.

EXAMPLE 66: CERTIFICATION STATEMENT.

Certified to be a true copy of the original document.
[Signature of certifying officer]

- **Duplicate originals.** The agency may choose to have all copies signed in ink by the issuing official. In this case, no certification statement is necessary since the copies are, in fact, duplicate originals.
- **Two-sided copy.** If the document is printed on two sides, an original and three copies of the document are necessary. Two of these

copies must be interfiled by the agency before submission so that they form one single-sided copy.

HOW DOES AN AGENCY SUBMIT A DOCUMENT TO THE FEDERAL REGISTER?

An agency may submit a document to the OFR by the following means.

- **Mail.** Documents sent through the regular mail must be addressed to—

  The Office of the Federal Register
  National Archives and Records Administration
  Washington, DC 20408

  The OFR does not receive material in the regular mail addressed to 1100 L Street, NW., because the OFR does not have its own mail service at that location.

- **Messenger services, overnight delivery, Express mail.** Documents may be delivered between 8:45 a.m. and 5:15 p.m., Monday through Friday, except for Federal holidays, to—

  The Office of the Federal Register
  Room 8301, 1100 L Street, NW.
  Washington, DC 20005

WHEN WILL THE DOCUMENT BE PUBLISHED?

Documents to be published in the Federal Register are assigned to a publication schedule after they meet the publication requirements of 1 CFR Chapter I.

Regular schedule. Each document is assigned to the regular schedule unless special arrangements are made or the document requires extra time to print as discussed under Deferred schedule below. The regular schedule provides for a document to be published on the third working day after the day it has been accepted for publication. Example 67 does not take into account Federal holidays.

EXAMPLE 67.

Received	Filed for public inspection	Published
Monday	Wednesday	Thursday.
Tuesday	Thursday	Friday.
Wednesday	Friday	Monday.
Thursday	Monday	Tuesday.
Friday	Tuesday	Wednesday.

Emergency schedule. The emergency schedule is designed to provide the fastest possible publication in an emergency situation. Each request for emergency scheduling must be made by letter which explains the need for emergency handling. The letter must accompany the document and be addressed to the Director, Office of the Federal Register. The request will be granted if—

- The printing schedule permits; and
- The need is clearly shown.

Deferred schedule. Documents are assigned to the deferred schedule if—

- The issuing agency requests delayed publication;

- Technical printing considerations require additional time for publication; or
- The size of the document requires additional processing time. (A document of 100 double-spaced pages or more may require the additional time.)

WHEN IS THE DOCUMENT FILED FOR PUBLIC INSPECTION?

A document is considered filed with the Office of the Federal Register after it has been received and processed by the OFR and made available for public inspection. Filing of a document authorized to be published in the Federal Register is sufficient to give notice of the contents of the document to a person affected by it (44 U.S.C. 1507).

The OFR must file each document for public inspection on the working day before date of publication. The issuing agency may request in writing an earlier filing date.

Documents filed for public inspection are available for inspection and copying during official business hours (8:45 a.m. to 5:15 p.m. Monday through Friday except for Federal holidays) at—

The Office of the Federal Register
Room 8301, 1100 L Street, NW.
Washington, DC

The OFR will not release information concerning a document to the public before the document is filed for public inspection.

HOW CAN A DOCUMENT BE WITHDRAWN AFTER IT HAS BEEN SUBMITTED TO THE OFR?

The agency should arrange to withdraw a document through its liaison officer.

A document submitted for publication in the Federal Register may be withdrawn at the issuing agency's request by a telephone call to the OFR any time before the document is filed for public inspection. The agency must then submit a letter confirming the withdrawal.

After a document is filed for public inspection, the issuing agency must submit a letter to the OFR to withdraw the document. The letter must be signed by the agency official authorizing the withdrawal. The letter must reach the OFR by 12:00 noon of the workday preceding the scheduled publication date. The agency should also telephone the OFR as soon as possible to indicate that a letter authorizing a withdrawal is being sent to the OFR.

- The document will not be withdrawn from publication until the OFR receives the letter.
- The document and the letter withdrawing the document will remain on public inspection throughout the day the document was scheduled for publication.
- The OFR will retain the original copy of the document.

HOW TO MAKE REQUESTS FOR SPECIAL HANDLING OF A DOCUMENT.

The agency may use the form on page 69 to request special handling for a document. The agency should include the form when the document is submitted for publication in the Federal Register.

HOW TO REQUEST EXTRA COPIES OF A DOCUMENT PUBLISHED IN THE FEDERAL REGISTER

An agency may obtain a large number of copies of a particular document through GPO. Requests for additional copies must be made before publication of the document. The Government Printing Office Departmental Account Representative Division can help the agency determine the best method of ordering additional copies within time and budget considerations.

Overruns. Overruns are additional copies of a separate part of a Federal Register issue or the entire issue. Overruns provide for quick production and delivery since they are generally made shortly after the issue is printed by GPO.

- An agency may order overruns of a separate part of a Federal Register issue by—
  - —Requesting that the document be printed as a separate part when it is submitted to the OFR for publication;
  - —Obtaining the publication date and separate part number of the document from the Information Processing Unit of the OFR;
  - —Submitting a completed Standard Form 1 (SF–1) to GPO by noon on the working day before the day of publication; and
  - —Specifying each request for special handling or a special feature on the SF–1.
- An agency may obtain optional features for overruns of separate parts. Optional features available include—
  - —Heavier grade paper;
  - —Heavier grade cover;
  - —A redesigned cover;
  - —Use of agency frank on reprints; or
  - —Text or tables printed in a larger type size.

If an agency desires an optional feature, it must contact GPO Departmental Account Representative Division in advance of publication and specify the request on the SF–1. At that time GPO will create a production plan and schedule for the complete printing and binding.

Photoprints. Photoprints are good clear copies of typeset material on a high-contrast paper for use on an offset press. An agency may use photoprints in their own or commercial printing plants.

If the agency has arranged for an open jacket, a specialized billing arrangement with GPO, the agency may order photoprints by attaching a written request to the original copy of the document submitted to the OFR for publication. The request must specify the open jacket number and the requisition number.

If the agency does not have an open jacket, the agency may order photoprints by submitting an SF–1 to GPO Departmental Account Representative Division.

Printing Officer. Each agency has a designated printing officer who represents the agency in dealing with GPO.

HOW CAN A DOCUMENT BE CORRECTED AFTER IT HAS BEEN SUBMITTED TO THE OFR?

The agency should arrange to make corrections through its liaison officer.

If a document has been submitted to the OFR and an error is discovered, it may still be possible for the agency to make a correction. The procedure for making the correction will depend on whether the document has been filed for public inspection. (See page 64.)

If an error is discovered in a document before it is filed for public inspection, the issuing agency may recall the document for correction. In some cases, simple corrections may be made by telephoning the OFR.

If an error is discovered after a document is filed for public inspection, the issuing agency may correct the document only by submitting a letter detailing the change. The letter must be signed by an appropriate official. The letter must reach the OFR by 12:00 noon of the workday preceding the scheduled publication date. The agency should also telephone the OFR as soon as possible to indicate that the letter is being sent. The letter is filed for public inspection with the document it corrects. Extensive changes are difficult to make in the final production stages. If the correction requires extensive changes, it may be necessary to withdraw the document from publication.

WHAT CORRECTIONS CAN BE MADE AFTER THE DOCUMENT HAS BEEN PUBLISHED?

Following the publication of an agency's document in the Federal Register, the agency should proofread the published document against a copy of the original document to discover any errors that may have occurred. It is important to proofread the document in a timely fashion so that a correction, if necessary, can be published. This will ensure that the CFR is accurate.

If a significant error was made in the publication process, the OFR will prepare and publish a correction document that reflects the content of the original document.

If the error was made in the original document, the agency must issue a signed document correcting the error. The correction document must be prepared, signed, and submitted to the OFR as a document for publication. The correction document must refer to the earlier document and clearly identify the error being corrected.

- The headings of a correction document should repeat the headings of the document containing the error. However, if the correction is to a rule or proposed rule document, only the parts corrected should be repeated unless corrections are also made to the preamble. If corrections are made to the preamble, all part numbers affected by the original document must be included in the heading. The word "correction" should be added to the subject heading as shown in examples 68 and 69.

- If the correction is to a proposed rule or final rule document, the document must comply with the preamble requirements of 1 CFR 18.12.
- The Federal Register page and publication date of the earlier document must be clearly identified.
- The error being corrected must be identified as clearly as possible.
  - —In codified text of a proposed rule, or a rule being corrected before the revision date of its CFR title, cite the CFR unit containing the error and the Federal Register page number and column where the error occurred.
  - —In codified text of a rule being corrected after the revision date of its CFR title, present the correction as an amendment to the CFR. Do not use the term "corrected" in the amendatory language.
  - —In noncodified text or tabular material, specify the Federal Register page number and column containing the error.
- The actual change must be described as briefly and accurately as possible. If necessary, present the incorrect material first. Then present the correct text.

Nonsubstantive corrections, such as for obvious misspellings, may not require publication of a document. Check with the OFR.

EXAMPLE 68: CORRECTION DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 421
[FRL-2941-1]
Nonferrous Metals Manufacturing Point Source Category, Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Correction
AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule; correction.
SUMMARY: EPA is correcting errors in the preamble and effluent limitations guidelines and pretreatment standards for the nonferrous metals manufacturing point source category which appeared in the Federal Register on September 20, 1985 (50 FR 38276).
FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall at (202) 382-7126.
SUPPLEMENTARY INFORMATION: EPA has promulgated regulations for the nonferrous metals manufacturing point source category in two phases because of the diversity and complexity of the category. Phase I was promulgated on March 8, 1984 (49 FR 8742). Phase II was promulgated on September 20, 1985 (50 FR 38276). The Phase II regulation contained errors which are discussed briefly below and are corrected by this notice.
* * * * *

Dated: December 11, 1985.
Lawrence J. Jensen,
Assistant Administrator for Water.

The following corrections are made in FRL 2872-1, the Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards published in the Federal Register on September 20, 1985 (50 FR 38276).

1. The sixth full paragraph in the third column on page 38292 which reads, "The sources of process wastewater receiving an allowance in the primary zirconium and hafnium subcategory are listed below along with the pollutants typically found in each:" is revised to read as follows:

"Fourteen of the remaining 18 sources of process wastewater receiving an allowance in the primary zirconium and hafnium subcategory are listed below, along with the pollutants typically found in each. The other four sources are described in detail in the accompanying development document for this subcategory."

2. On page 38310, second column, line 8, change "BAT" to "NSPS".

3. On page 38310, third column, line 46, change "BAT" to "NSPS".

4. On page 38312, third column, line 14, change "BAT" to "PSES".

5. Section 421.4 on page 38342, column 2, is correctly revised to read as follows:
§ 421.4 Compliance date for pretreatment standards for existing sources (PSES).

The PSES compliance deadline in Subparts A through M is March 8, 1987. The PSES compliance deadline for plants in Subparts N through AE is September 20, 1988.
* * * * *

EXAMPLE 69: CORRECTION DOCUMENT.

DEPARTMENT OF LABOR
Employment and Training Administration
Address for Public Meeting To Be Held in Chicago, Illinois, on State Employment Security Agency Administrative Financing; Correction
AGENCY: Employment and Training Administration, Labor.
ACTION: Notice of correction of address.
SUMMARY: This notice corrects the address previously published in the Federal Register December 20, 1985, (50 FR 51955) for a public meeting to be held in Chicago, Illinois, on January 15, 1986, on State Employment Security Agency administrative financing. There are no changes in address for the public meetings in Dallas, Texas, Washington, D.C., and San Francisco, California. The address for the Chicago meeting is: Palmer House, 17 East Monroe Street, Chicago, Illinois.

The date and times for the meeting remain unchanged: January 15, 1986, 8:30 a.m. to 5:00 p.m.
Dated: January 8, 1986.
Roger D. Semerad,
Assistant Secretary of Labor.

Request for Special Handling

I am requesting the following special handling for this document:

☐ **Deferred publication date:** Please publish this document on _____.

☐ **Emergency publication:** Please publish this document on _____.
Attached is a letter explaining the need for this emergency publication.

☐ **Confirm publication date:** Please call me to confirm the publication date and/or separate part number of this document.

☐ **Separate part:** Please publish this document in a separate part of the FEDERAL REGISTER so that we may order overruns or reprints from the Government Printing Office.

☐ **Photo prints:** Please supply____ sets of photo prints.

Charge these photo prints to:

GPO Open Jacket Number _____

or

Agency requisition Number _____

Deliver them to:

Name _____

Address _____

_____

Signed _____ _____

Telephone _____

Chapter VI—Miscellaneous

Tables, illustrations, and forms

GENERAL

All material submitted to the Office of the Federal Register for publication in the Federal Register must be clear and legible. If a table or form cannot be typeset because of time constraints or complexity, the OFR may request an original or photographable reproduction from the agency. Illustrations must be photographable quality when submitted.

The agency must clearly indicate the appropriate placement of a table, illustration, or form within a document.

Extra preparation time may be required for documents containing tables, illustrations, or forms.

Tables and forms are typeset according to the GPO Style Manual.

SPECIFIC

Tables: See the discussion on footnotes on below for footnote numbering in tables.

Illustrations: Illustrations include maps, diagrams, graphs, or other pictorial material. If an illustration is amended, a complete new drawing must be submitted with the amendatory document. If the agency wants the original artwork returned, it must specify this in a transmittal letter.

Forms: A form is printed in the Federal Register only when it is necessary for the form to appear with the document. Forms should not contain regulatory material. Inclusion of a form is for informational purposes. It should not be included with the expectation that it will be filled out and submitted. The agency should supply an address from which copies of the form may be obtained.

If between the revision dates of its CFR volume an agency amends a form without printing it in full, the agency must submit an original form or photographable reproduction to the CFR unit. An extra copy of the form is required if the form is printed on front and back.

Footnotes

In any document, footnotes must be numbered separately for each unit listed below.

- Each CFR part;
- Preamble;
- Table;
- Illustration;
- Form; and
- Appendix.

Footnotes for the preamble, the regulatory text, and tables, illustrations, forms, and appendixes must be numbered independently. The first footnote in each CFR part is numbered "1." The preamble to a rule or pro-

posed rule document will not appear in the CFR so it must be numbered independently from the regulatory text. The GPO places footnotes to tables, illustrations, forms, and appendixes immediately following the specific unit. Each unit is numbered independently of the others.

If an agency sets out in a document regulatory text containing a footnote, it should print the text of the footnote.

Footnotes to regulations should be explanatory, not regulatory.

Appendixes in rule and proposed rule documents

An appendix is material that is added to a CFR chapter, part, subpart, or section but not essential to the meaning or completeness of the regulation. The agency may use an appendix to improve the quality or utility of a regulation but not to impose new requirements or restrictions. The CFR reader may question or misunderstand the legal status of that material; therefor the agency should be careful in using appendixes in regulatory text. An appendix may contain—

- Supplemental, background, or explanatory information which contributes by illustration or amplification to the understanding of a regulation that is complete in itself;
- Forms or charts which illustrate or must be used with certain aspects of regulatory text; and
- Detailed text or evaluation procedures which must be used with regulatory text.

The agency may not use the appendix as a substitute for regulatory text. Regulatory material must be presented as an amendment to codified text, not disguised as an appendix. Material in an appendix may not—

- Amend or affect existing portions of CFR text; or
- Introduce new requirements or restrictions into an agency's regulations.

The heading of an appendix should indicate the subject of the material contained in it and explain the relationship of the appendix to the rest of the regulation. A complete appendix heading should—

- Conform to a uniform system of designation for appendixes throughout the agency's regulations;
- Indicate the regulatory provision to which the appendix is appended; and
- Provide a short, descriptive subject heading.

EXAMPLE 70.

Appendix A to Part 430—Insulation Adequacy Evaluation Criteria
Appendix B to Subpart C of Part 430—Test Procedures for Tire Traction
Appendix C to § 430.4—Tire Tread Chart

An appendix to a part or subpart must be listed in the table of contents to the part.

An appendix should be placed immediately following the unit to which it is appended. In example 70—

- Appendix A to Part 430 would be placed after the last section in the part.

- Appendix B to Subpart C of Part 430 would be placed at the end of Subpart C.
- Appendix C to § 430.4 would be placed at the end of the section.

The agency may include an appendix in a rule or proposed rule document published in the Federal Register but not reprint the appendix in the CFR. However, an appendix which will not appear in the CFR must not be referenced within the regulatory text of the document. If the agency does not desire to include an appendix that appears in the Federal Register in the CFR, it should place a note under the appendix heading. The note should indicate the agency's intention concerning the status of the appendix.

EXAMPLE 71.

NOTE.—The following appendix will not appear in the Code of Federal Regulations.

Drafting regulatory text

The agency should prepare regulatory provisions so that the intended meaning is clearly understood. The basic principles of clear writing and effective communication apply to regulatory drafting. The following list summarizes good drafting practices.

- Make short statements.
- Use positive rather than negative statements.
- Use active voice rather than passive voice.
- Use present tense.
- Use indicative mood.
- Use simple finite verbs rather than their infinitives, participles, or gerunds.
- Use singular rather than plural nouns.
- Use the same words consistently to convey the same meaning—avoid synonyms.
- Avoid: Unnecessary modifiers, unnecessary definitions, unnecessary references, long and unfamiliar words, legalistic expressions, and circumlocutions.

Organizing regulatory text

Organization is important in drafting regulatory text. The organization of a regulation helps determine whether the regulation—

- Effectively accomplishes its intended objective;
- Is complete; and
- Is easy to use, amend, and cite.

A well-organized regulation allows the reader to find needed material without reading the entire regulation. A reader approaches a regulation with particular problems or questions. The agency should organize and label regulatory text so that the reader can locate the material necessary to answer his or her questions.

Arrange information in regulations by placing—

- General provisions before specific provisions;
- More important provisions before less important provisions;
- More frequently used provisions before less frequently used provisions;
- Permanent provisions before temporary provisions; and
- Administrative and penalty provisions at the end.

Redesignation table

When an agency rearranges and renumbers its regulations, it should develop a redesignation table. (See example 72.) A redesignation table is a systematic listing of the old CFR unit numbers with the corresponding new CFR unit numbers. A redesignation table helps—

- The agency ensure that all CFR units involved in the reorganization are accounted for; and
- The reader locate the redesignated CFR unit in the new system and research the history of the provision under the old number.

The agency should submit a redesignation table with each proposed rule and final rule document if 20 or more CFR units are being renumbered and these units are scattered throughout the chapter or part. The redesignation table appears in the SUPPLEMENTARY INFORMATION section of the preamble. The agency may request that the table be placed in the finding aids portion of the appropriate CFR volume by contacting the CFR staff.

EXAMPLE 72: REDESIGNATION TABLE.

Old section	New section
121.200	558.3
121.207	558.680
121.208	558.128
121.210 and 558.55	558.55 and 558.58
121.213	558.274
121.220	558.430
121.233	558.78
121.237	558.368
121.238	558.126
121.241 and 558.225	558.225
121.248	558.370
121.249	558.820, 526.1014, 529.2090, and 540.874
121.251	558.450
121.252	558.76
121.253	558.62
121.254	558.60
121.255	558.262
121.256	558.460
121.258	558.240
121.262	558.530
121.263 and 121.264	558.376
121.267	558.266
121.280	558.579
121.292 and 558.248	558.248
121.297	558.258
121.305	558.582
121.308	558.342
121.310	558.120
121.323	558.254

Distribution and derivation tables

Distribution and derivation tables are used to account for substantive changes in regulations that are rewritten. (See examples 73 and 74.) The tables enable the reader to check the completeness, accuracy, and reasoning behind the rewritten version.

Distribution and derivation tables are complementary. A distribution table shows where each piece of the original material went in the revised material or indicates why it is no longer needed. A derivation table shows where each piece of the revised material comes from.

Distribution and derivation tables appear in the SUPPLEMENTARY INFORMATION section of the preamble. The agency may request that the

tables be placed in the finding aids portion of the appropriate CFR volume by contacting the CFR staff.

EXAMPLE 73: DISTRIBUTION TABLE.

Old section	New section
449.33(a) introductory paragraph.	442.10, 442.100
449.33(a)(1) introductory paragraph except words "(including hospitals)".	442.12(a), 442.101
449.33(a)(1) introductory paragraph words "(including hospitals)".	Unnecessary.
449.33(a)(1)(i) words before "that the facility meets".	442.101(b)
449.33(a)(1)(i) words after "this chapter".	442.101(d), 442.200, 442.202, 442.253
449.33(a)(1)(ii) words before "and in the case", except words "pursuant to section 1910 of the Act".	442.101(d), 442.200, 442.202, 442.253, 442.101(b)(2)
449.33(a)(1)(ii) words "pursuant to sec. 1910 of the Act".	442.1(a)(7)
449.33(a)(1)(ii) words after "title XVIII of the Act".	442.20(c)(3)
449.33(a)(1)(iii) words before "except that", except words "pursuant to sec. 1905 of the Act".	442.101(b)(1), 442.200, 442.202(b), (c)
449.33(a)(1)(iii) words "pursuant to sec. 1905 of the Act".	442.1(a)(6)
449.33(a)(2) introductory paragraph except words "(including hospitals and skilled nursing facilities)".	442.12(a), 442.101, 442.250
449.33(a)(2) introductory paragraph words "(including hospital and skilled nursing facilities)".	Unnecessary.
449.33(a)(2)(i) except words "in accordance with paragraph (a)(4)(iii) of this section" and paragraph (E).	442.112
449.33(a)(2)(i) words "in accordance with paragraph (a)(4)(iii) of this section".	Redundant.
449.33(a)(2)(i)(E)	Redundant.
449.33(a)(2)(ii) except words "in accordance with paragraph (a)(4)(iii)(A) of this section", and paragraphs (A)(*2*) and (*3*) and (D).	442.113
449.33(a)(2)(ii) words "in accordance with paragraph (a)(4)(iii)(A) of this section".	Redundant.
449.33(a)(2)(ii)(A)(*2*)	Obsolete.

EXAMPLE 74: DERIVATION TABLE.

New section	Old section
250.1	250.210(a).
250.3	250.210(b) (1st sentence).
250.5	250.210(b) (1st para.)(2d sentence preceding the words "...or the reasonable...").
	250.210(c)(except last sentence).
250.7	250.210(c) last sentence.
250.9	250.210(b)(2d para.)(1st sentence).
250.11	250.210(b)(2d para.)(except 1st sentence).
250.13	250.210(b)(1st para.)(2d sentence after "...such capital expenditures..." and next to last sentence).
250.15	250.210(b)(1st para.)(last sentence).
250.17	250.210(d).

Privacy Act documents

The Privacy Act of 1974 (5 U.S.C. 552a) requires each agency to publish its systems of records and the regulations governing public access to the records in the Federal Register.

- Each agency must follow the requirements of Chapter III of this handbook in preparing a rulemaking document required by the Privacy Act for publication.

- Each agency must follow the general requirements of Chapter IV of this handbook and the specific requirements of this section in preparing notice documents pertaining to systems of records for publication under the Privacy Act.

Format requirements. The Privacy Act requires the publication of specific information concerning systems of records. The OFR has classified the required information into specific data elements and provided a standard caption heading for each data element. All information required in a system of records notice document must be presented under one of these data elements. The data elements must appear as shown including capitalization and punctuation. No other data elements may be used. The system of records data elements are as follows:

(Unique system number assigned by the submitting agency)
System name:
Security classification:
System location:
Categories of individuals covered by the system:
Categories of records in the system:
Authority for maintenance of the system:
Purpose(s):
Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure to consumer reporting agencies:
Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:
Storage:
Retrievability:
Safeguards:
Retention and disposal:
System manager(s) and address:
Notification procedure:
Record access procedures:
Contesting record procedures:
Record source categories:
Systems exempted from certain provisions of the act:

Machine readable format

If an agency is considering the use of machine readable copy in a document to be published in the Federal Register, the agency should contact the OFR before preparing the document. Under certain conditions machine readable copy may be used in the printing process if it meets GPO specifications.

The OFR and GPO are exploring various methods of accepting machine readable documents from the agencies. Interested agencies should contact the OFR for specific information (202–523–5240).

Chapter VII—Legal Requirements for Rulemaking Documents

The Federal Register Act as codified and amended in the United States Code is presented below for convenient reference.

44 U.S.C. CHAPTER 15—FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

Sec.

1501. Definitions.
1502. Custody and printing of Federal documents; appointment of Director.
1503. Filing documents with Office; notation of time; public inspection; transmission for printing.
1504. "Federal Register"; printing; contents; distribution; price.
1505. Documents to be published in Federal Register.
1506. Administrative Committee of the Federal Register; establishment and composition; powers and duties.
1507. Filing document as constructive notice; publication in Federal Register as presumption of validity; judicial notice; citation.
1508. Publication in Federal Register as notice of hearing.
1509. Costs of publication, etc.
1510. Code of Federal Regulations.
1511. International agreements excluded from provisions of chapter.

§ 1501. DEFINITIONS.

As used in this chapter, unless the context otherwise requires—

"document" means a Presidential proclamation or Executive order and an order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency;

"Federal agency" or "agency" means the President of the United States, or an executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government;

"person" means an individual, partnership, association, or corporation, and

"National Archives of the United States" has the same meaning as in section 2901(11) of this title.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1273; Pub. L. 98-497, Oct. 19, 1984, 98 Stat. 2286, 2287.)

§ 1502. CUSTODY AND PRINTING OF FEDERAL DOCUMENTS; APPOINTMENT OF DIRECTOR.

The Archivist of the United States, acting through the Office of the Federal Register, is charged with the custody and, together with the Public Printer, with the prompt and uniform printing and distribution of the documents required or authorized to be published by section 1505 of this title. There shall be at the head of the Office a director, appointed by, and who shall

act under the general direction of, the Archivist of the United States in carrying out this chapter and the regulations prescribed under it.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1273; Pub. L. 98–497, Oct. 19, 1984, 98 Stat. 2286, 2287.)

§ 1503. FILING DOCUMENTS WITH OFFICE; NOTATION OF TIME; PUBLIC INSPECTION; TRANSMISSION FOR PRINTING.

The original and two duplicate originals or certified copies of a document required or authorized to be published by section 1505 of this title shall be filed with the Office of the Federal Register, which shall be open for that purpose during all hours of the working days when the National Archives Building is open for official business. The Archivist of the United States shall cause to be noted on the original and duplicate originals or certified copies of each document the day and hour of filing. When the original is issued, prescribed, or promulgated outside the District of Columbia, and certified copies are filed before the filing of the original, the notation shall be of the day and hour of filing of the certified copies. Upon filing, at least one copy shall be immediately available for public inspection in the Office. The original shall be retained by the National Archives and Records Administration and shall be available for inspection under regulations prescribed by the Archivist, unless such original is disposed of in accordance with disposal schedules submitted by the Administrative Committee of the Federal Register and authorized by the Archivist pursuant to regulations issued under chapter 33 of this title; however, originals of proclamations of the President and Executive orders shall be permanently retained by the Administration as part of the National Archives of the United States. The Office shall transmit immediately to the Government Printing Office for printing, as provided by this chapter, one duplicate original or certified copy of each document required or authorized to be published by section 1505 of this title. Every Federal agency shall cause to be transmitted for filing the original and the duplicate originals or certified copies of all such documents issued, prescribed, or promulgated by the agency.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1274; Pub. L. 95–440, § 2, Oct. 10, 1978, 92 Stat. 1063; Pub. L. 98–497, Oct. 19, 1984, 98 Stat. 2287.)

§ 1504. "FEDERAL REGISTER"; PRINTING; CONTENTS; DISTRIBUTION; PRICE.

Documents required or authorized to be published by section 1505 of this title shall be printed and distributed immediately by the Government Printing Office in a serial publication designated the "Federal Register." The Public Printer shall make available the facilities of the Government Printing Office for the prompt printing and distribution of the Federal Register in the manner and at the times required by this chapter and the regulations prescribed under it. The contents of the daily issues shall be indexed and shall comprise all documents, required or authorized to be published, filed with the Office of the Federal Register up to the time of the day immediately preceding the day of distribution fixed by regulations under this chapter. There shall be printed with each document a copy of the notation, required to be made by section 1503 of this title, of the day and hour when, upon filing with the Office, the document was made available for public inspection. Distribution shall be made by delivery or by deposit at a post office at a time in the morning of the day of

distribution fixed by regulations prescribed under this chapter. The prices to be charged for the Federal Register may be fixed by the Administrative Committee of the Federal Register established by section 1506 of this title without reference to the restrictions placed upon and fixed for the sale of Government publications by sections 1705 and 1708 of this title.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1274.)

§ 1505. DOCUMENTS TO BE PUBLISHED IN FEDERAL REGISTER.

(a) Proclamations and Executive orders; documents having general applicability and legal effect; documents required to be published by Congress.

There shall be published in the Federal Register—

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

(b) Documents authorized to be published by regulations; comments and news items excluded.

In addition to the foregoing there shall also be published in the Federal Register other documents or classes of documents authorized to be published by regulations prescribed under this chapter with the approval of the President, but comments or news items of any character may not be published in the Federal Register.

(c) Suspension of requirements for filing of documents; alternate systems for promulgating, filing, or publishing documents; preservation of originals.

In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack—

(1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or

(2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents.

The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1274.)

§ 1506. ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER; ESTABLISHMENT AND COMPOSITION; POWERS AND DUTIES.

The Administrative Committee of the Federal Register shall consist of the Archivist of the United States or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer. The Director of the Federal Register shall act as secretary of the committee. The committee shall prescribe, with the approval of the President, regulations for carrying out this chapter. The regulations shall provide, among other things—

(1) the manner of certification of copies required to be certified under section 1503 of this title, which certification may be permitted to be based upon confirmed communications from outside the District of Columbia;

(2) the documents which shall be authorized under section 1505(b) of this title to be published in the Federal Register;

(3) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound, and distributed;

(4) the number of copies of the Federal Register, which shall be printed, reprinted, and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or Federal agency, for official use, and the number which shall be available for distribution to the public; and

(5) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes of it.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1275; Pub. L. 98–497, Oct. 19, 1984, 98 Stat. 2287.)

§ 1507. FILING DOCUMENT AS CONSTRUCTIVE NOTICE; PUBLICATION IN FEDERAL REGISTER AS PRESUMPTION OF VALIDITY; JUDICIAL NOTICE; CITATION.

A document required by section 1505(a) of this title to be published in the Federal Register is not valid as against a person who has not had actual knowledge of it until the duplicate originals or certified copies of the document have been filed with the Office of the Federal Register and a copy made available for public inspection as provided by section 1503 of this title. Unless otherwise specifically provided by statute, filing of a document, required or authorized to be published by section 1505 of this title, except in cases where notice by publication is insufficient in law, is sufficient to give notice of the contents of the document to a person subject to or affected by it. The publication in the Federal Register of a document creates a rebuttable presumption——

(1) that it was duly issued, prescribed, or promulgated;

(2) that it was filed with the Office of the Federal Register and made available for public inspection at the day and hour stated in the printed notation;

(3) that the copy contained in the Federal Register is a true copy of the original; and

(4) that all requirements of this chapter and the regulations prescribed under it relative to the document have been complied with.

The contents of the Federal Register shall be judicially noticed and without prejudice to any other mode of citation, may be cited by volume and page number.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1276.)

§ 1508. PUBLICATION IN FEDERAL REGISTER AS NOTICE OF HEARING.

A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient in law, when the notice is published in the Federal Register at such a time that the period between the publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard is—

(1) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of Congress; or

(2) not less than fifteen days when time for publication is not specifically prescribed by the Act, without prejudice, however, to the effectiveness of a notice of less than fifteen days where the shorter period is reasonable.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1276.)

§ 1509. COSTS OF PUBLICATION, ETC.

(a) The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be charged to the revolving fund provided in section 309. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 309(b).

(b) The costs of printing, reprinting, wrapping, binding, and distributing all other publications of the Federal Register program, and other expenses incurred by the Government Printing Office in connection with such publications, shall be borne by the appropriations to the Government Printing Office and the appropriations are made available, and are authorized to be increased by additional sums necessary for the purposes, the increases to be based upon estimates submitted by the Public Printer.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1277; Pub. L. 95–94, title IV, § 408(a)(1), Aug. 5, 1977, 91 Stat. 683.)

§ 1510. CODE OF FEDERAL REGULATIONS.

(a) The Administrative Committee of the Federal Register, with the approval of the President, may require, from time to time as it considers necessary, the preparation and publication in special or supplemental editions of the Federal Register of complete codifications of the documents of each agency of the Government having general applicability and legal effect, issued or promulgated by the agency by publication in the Federal Register or by filing with the Administrative Committee, and are relied upon by the agency as authority for, or are invoked or used by it in the discharge of, its activities or functions, and are in effect as to facts arising on or after dates specified by the Administrative Committee.

(b) A codification published under subsection (a) of this section shall be printed and bound in permanent form and shall be designated as the "Code of Federal Regulations." The Administrative Committee shall regulate the binding of the printed codifications into separate books with a view to practical usefulness and economical manufacture. Each book shall contain an explanation of its coverage and other aids to users that the Administrative Committee may require. A general index to the entire Code of Federal Regulations shall be separately printed and bound.

(c) The Administative Committee shall regulate the supplementation and the collation and republication of the printed codifications with a view to keeping the Code of Federal Regulations as current as practicable. Each book shall be either supplemented or collated and republished at least once each calendar year.

(d) The Office of the Federal Register shall prepare and publish the codifications, supplements, collations, and indexes authorized by this section.

(e) The codified documents of the several agencies published in the supplemental edition of the Federal Register under this section, as amended by documents subsequently filed with the Office and published in the daily issues of the Federal Register shall be prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of publication.

(f) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out this section.

(g) This section does not require codification of the text of Presidential documents published and periodically compiled in supplements to Title 3 of the Code of Federal Regulations.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1277.)

§ 1511. INTERNATIONAL AGREEMENTS EXCLUDED FROM PROVISIONS OF CHAPTER.

This chapter does not apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1278.)

The Administrative Procedure Act is codified in Title 5 of the United States Code. Three sections from that title are presented below for convenient reference.

5 U.S.C. SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

Sec.

551. Definitions.
552. Public information; agency rules, opinions, orders, records, and proceedings.
553. Rule making.

§ 551. DEFINITIONS.

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia; or except as to the requirements of section 552 of this title—

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section; and

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(14) "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 381.)

§ 552. PUBLIC INFORMATION; AGENCY RULES, OPINIONS, ORDERS, RECORDS, AND PROCEEDINGS.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which the forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph: or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90–23, § 1, June 5, 1967, 81 Stat. 54; Pub. L. 93–502, § 1–3, Nov. 21, 1974, 88 Stat. 1561–1564; Pub. L. 94–409, 5(b), Sept. 13, 1976, 90 Stat. 1247.)

§ 553. RULE MAKING.

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 383.)

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*U.S. GOVERNMENT PRINTING OFFICE: 1986- 485-376:50196

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